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Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 959—ONIONS GROWN IN SOUTH TEXAS

Determination Relative to Limitation of Shipments

Pursuant to Marketing Agreement No. 143 and Order No. 959 (7 CFR Part 959), regulating the handling of onions grown in designated counties in South Texas, grade, size, quality, pack, and container regulations were made effective for the period February 19, 1962, through June 30, 1962, upon recommendation of the South Texas Onion Committee (27 F.R. 1451, 2594, 2762). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and the regulations were issued to effectuate the declared policy of this act.

Prices received by producers of onions grown in the production area averaged $5.49 per hundredweight for the season through April 30, 1962. This is 111 percent of the Texas parity equivalent price of $4.93 per hundredweight. It is now believed that the season average price will exceed the Texas parity equivalent price since the major portion of the onion crop in this production area has already been marketed.

It is hereby found and determined, in accordance with paragraph (5) of section 602 of the Agricultural Marketing Agreement Act, as amended, that it is necessary to continue the aforesaid regulations in effect in order to avoid a disruption of the orderly marketing of the remainder of the current South Texas onion crop, and the continuation of such regulations will be in the public interest.

Dated: May 21, 1962.

Paul A. Nicholson,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62–5067; Filed, May 24, 1962; 8:49 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS

Formal Applications and Petitions

The following amendment to Chapter I of Title 8 of the Code of Federal Regulations is hereby prescribed:

Section 103.2 *Formal applications and petitions* is amended by deleting the last sentence thereof.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall become effective on the date of its publication in the Federal Register. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the rule prescribed by the order relates to agency procedure.

Dated: May 22, 1962.

Raymond F. Farrell,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 62–5086; Filed, May 24, 1962; 8:51 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. A]

PART 201—ADVANCES AND DISCOUNTS BY FEDERAL RESERVE BANKS

Farmers Home Administration Insured Notes as Collateral for Advances

§ 201.103 Farmers Home Administration insured notes as collateral for advances.

(a) The Board's views have been requested as to whether promissory notes evidencing loans by member banks to farmers which are insured by the Farmers Home Administration are eligible as collateral security for 90-day advances within the meaning of paragraph 8 of section 13 of the Federal Reserve Act.

(b) It is understood that the loans in question are insured pursuant to the Consolidated Farmers Home Administration Act of 1961, which comprises Title III of Public Law 87–128 approved August 8, 1961, and pursuant to section 514 of the Housing Act of 1949, as added by Title VIII of Public Law 87–70 approved June 30, 1961. Loans insured under Public Law 87–128 are made for farm operating purposes and to permit farmers or ranchers to buy, enlarge, develop, or improve a farm or to refinance debts; to develop water supply systems for irrigation, household use, and livestock; to drain farmland; and to carry out soil conservation measures. Loans insured under Public Law 87–70 are made to individual farmers and groups of farmers, political subdivisions, and public or private nonprofit associations to construct or repair housing and related facilities for domestic farm labor.

(c) Paragraph 8 of section 13 of the Federal Reserve Act provides that any Federal Reserve Bank "may make advances for periods not exceeding ninety days to its member banks on their promissory notes secured by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible * * * for purchase by Federal reserve banks under the provisions of this Act." The insured notes here involved are supported by the full faith and credit of the United States and, although the insurance endorsement of the Farmers Home Administration uses the term "insurance" rather than the term "guarantee", they are to be considered as "fully guaranteed" by the United States as to principal and interest within the meaning of section 14(b) of the Federal Reserve Act, as amended, and are therefore eligible for purchase by the Federal Reserve Banks.

(d) The insured notes here involved are to be distinguished from the Government-insured marine bonds considered by the Board in a 1960 published interpretation (§ 201.102; 25 F.R. 7044). The obligations there involved, although technically "notes", were clearly what are generally regarded as securities, and the Board felt that they did not constitute the kind of notes contemplated by the provision authorizing advances to member banks secured by "notes, drafts, bills of exchange, or bankers' acceptances" eligible for discount or purchase by the Federal Reserve Banks. In contrast, the insured notes involved in the present case are not securities as that term is ordinarily used.

(e) Accordingly, the Board has concluded that insured notes of the kind here involved are eligible as security for advances to member banks by Federal Reserve Banks.

(Sec. 11(i), 38 Stat. 262; 12 U.S.C. 248(i). Interprets or applies sec. 13, 38 Stat. 263 as amended; 12 U.S.C. 347, 347c)

Dated at Washington, D.C., this 14th day of May 1962.

Board of Governors of the Federal Reserve System,
[SEAL] Merritt Sherman,
Secretary.

[F.R. Doc. 62–5054; Filed, May 24, 1962; 8:46 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 5]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Insurance

Pursuant to authority contained in section 308 of the Small Business Investment Act of 1958, Public Law 85–699, 72 Stat. 694, as amended, there is amended, as set forth below, paragraph (b) § 107.711 of Part 107 of Subchapter B, Chapter I of Title 13 of the Code of Federal Regulations as revised in 26 F.R. 8232–8242 and amended (27 F.R. 167, 851, 1720, and 3844).

Information and effective date. There was published in the FEDERAL REGISTER on April 3, 1962 (27 F.R. 3168), a notice of intention to amend paragraph (b) § 107.711 of Part 107 of Subchapter B, Chapter I of Title 13 of the Code of Federal Regulations. Interested persons were given an opportunity to present their comments or suggestions pertaining thereto to the Investment Division, Small Business Administration, Washington 25, D.C., within a period of twenty-one days of the date of publication. After consideration of all such relevant matter as was presented by interested persons paragraph (b) § 107.711, with changes resulting from such consideration, is hereby adopted as set forth below. Because of the necessity of promptly applying the amendment to the program authorized under the Small Business Investment Act of 1958, as amended, the subject amendment shall become effective upon publication thereof in the FEDERAL REGISTER.

The Regulations Governing Small Business Investment Companies (26 F.R. 8232–8242), as amended, is hereby further amended by:

1. Deleting paragraph (b) of § 107.711 and substituting in lieu thereof a new paragraph (b). As amended, paragraph (b) of § 107.711 reads as follows:

§ 107.711 Insurance.

* * * * *

(b) (1) Each Licensee shall obtain and maintain a Brokers Blanket Bond, Standard Form No. 14, in form and substance acceptable to SBA: *Provided, however,* That a Licensee which is wholly owned by a commercial bank may be included only with the parent commercial bank as a joint insured under Bankers Blanket Bond, Standard Form No. 24, in form and substance acceptable to SBA. Such Bond shall be approved by the board of directors of the Licensee for the protection of the Licensee, covering officers or employees who have control over or access to cash, securities, or other property of the Licensee. Each such fidelity bond must be executed by a surety holding a certificate of authority from the Secretary of the Treasury under the Act of Congress approved July 30, 1947 (6 U.S.C., secs. 6–13) as an acceptable surety on Federal bonds in the State or jurisdiction concerned. A duplicate copy of such bond, as executed and delivered by the surety company together with a verification certificate, executed by the surety company that such bond is in full force and effect, shall be submitted to SBA by all Proposed Operators at the time of submission of the License Application and within sixty days following the effective date hereof by all Licensees existing as of such effective date. Licensees which have already obtained Brokers Blanket Bond, Standard Form No. 14, or are covered under Bankers Blanket Bond, Standard Form No. 24, as provided for herein and have filed a verified duplicate copy thereof with SBA are required only to provide SBA with a verified copy of the riders or endorsements required under subdivisions (i) and (ii) of this subparagraph and a rider or endorsement to such bond increasing the dollar amount of coverage to the amount required by this section of the regulations. Each Licensee, at least thirty days prior to making any request to the surety company to terminate or cancel such bond, shall notify SBA in writing of its intent to terminate or cancel the bond. Each Licensee shall have as a part of its verified bond: (i) A rider or endorsement providing that the surety company will submit to SBA an executed copy of any rider or endorsement to be included as a part of the bond concerning any change in the terms, conditions, or coverage of the same; and (ii) a rider or endorsement providing that the surety company will notify SBA of its intent to cancel the fidelity bond at least thirty days in advance of the effective date of the cancellation. Each Licensee shall notify SBA immediately in writing of any claim for loss filed under the bond with the surety company. Such notifications to SBA shall be by certified mail addressed to the Deputy Administrator, Investment Division, Small Business Administration, 811 Vermont Avenue NW., Washington 25, D.C.

(2) The minimum amount of fidelity bond for each Licensee acceptable to SBA shall be based upon the total amount of the assets of the Licensee (including any undisbursed commitment, § 107.301 (c) and (i) of the regulations, by SBA to provide minimum capital and surplus through purchase of subordinated debentures) plus the unpaid balance of loans and investments which the Licensee has contracted to service for others, as follows:

Assets plus loans and investments serviced for others	*Minimum coverage*
Up to $400,000	$25,000
$400,001 to $500,000	30,000
$500,001 to $750,000	40,000
$750,001 to $1,000,000	50,000
$1,000,001 to $2,000,000	75,000
$2,000,001 to $3,000,000	100,000
$3,000,001 to $4,000,000	125,000
$4,000,001 to $5,000,000	150,000
$5,000,001 to $7,500,000	175,000
$7,500,001 to $10,000,000	200,000
$10,000,001 and over	([1])

[1] $200,000 plus $10,000 for each $1,000,000 or fraction thereof over $10,000,000, except that no Licensee shall be required to provide and maintain a fidelity bond in an amount greater than $1,000,000.

Dated: May 21, 1962.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 62–5061; Filed, May 24, 1962; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Reg. Docket No. 737; Reg. SR–446A]

PART 40—SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

PART 41—CERTIFICATION AND OPERATION RULES FOR CERTIFICATED ROUTE AIR CARRIERS ENGAGING IN OVERSEAS AND FOREIGN AIR TRANSPORTATION AND AIR TRANSPORTATION WITHIN HAWAII AND ALASKA

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

PART 43—GENERAL OPERATION RULES

PART 45—COMMERCIAL OPERATOR CERTIFICATION AND OPERATION RULES

PART 46—SCHEDULED AIR CARRIER HELICOPTER CERTIFICATION AND OPERATION RULES

Special Civil Air Regulation; Use of Portable Frequency Modulation (FM) Type Radio Receivers on Aircraft During Flight

In 1961, during tests conducted by the Federal Aviation Agency's Aviation Research and Development Service, it was found that radio receivers having local oscillators operating within or near the VHF omnirange (VOR) frequency band (108 to 118 Mcs.) cause interference which adversely affects the operation of an aircraft's VOR navigational system. Various types of portable radio receivers (i.e., radio receivers capable of being carried aboard an aircraft by a passenger) were used in these tests to determine which would produce interference to the VOR equipment. It was determined that the portable frequency modulation (FM) radio receiver is the only type radio receiver, which is commonly used by the general public, that would create this unwanted interference. Therefore, it was found that immediate regulatory action was necessary in order to provide adequately for safety in air commerce.

Accordingly, on May 4, 1961, the Federal Aviation Agency issued Special Civil Air Regulation No. SR–446 (26 F.R. 4011) to become effective May 25, 1961. This regulation, which will expire May 24, 1962, prohibits the operation of portable FM radio receivers during flight on all civil aircraft of the United States operated by an air carrier or a commercial operator. It also prohibits the operation of portable FM radio receivers on all other VOR-equipped civil aircraft of the United States while such VOR equipment is being used for navigational purposes. The added restriction in the case of aircraft operated by an air carrier or a commercial operator was necessary since most of these aircraft are equipped with VOR navigational equipment and it would be difficult, if not impossible, for a passenger to know when the pilot in command was depending upon this equipment for navigational purposes. In addition, although not all portable FM radio receivers utilize local oscillators which will create interference, it was necessary to make the rule applicable to all portable FM radio receivers since it would not be feasible to expect the general public, airline personnel, or air crewmembers to distinguish which will cause this interference.

The tests which disclosed the interference problems caused by FM radio receivers were not completed at the time SR-446 was issued in 1961. Therefore, to simplify revision of the rule if additional interference problems were found by the tests, SR-446 was issued as a temporary rule, effective for a one-year period. When SR-446 was issued, the Agency had intended, prior to its expiration, to incorporate the provisions of the rule into the applicable operating parts, i.e., Parts 40, 41, 42, 43, 45, and 46. However, since the final evaluation of these tests by all interested industry parties has not been completed, this action has not been taken. Accordingly, since the conditions under which SR-446 was issued still exist, it is necessary, in order to provide adequately for safety in air commerce, to extend the provisions of that rule for a period of one year.

Since this regulation extends the provisions of a currently effective regulation which expires on May 24, 1962, and a lapse in the effectiveness of the regulation would endanger safety in air commerce, I find that notice and public procedure hereon would be contrary to the public interest, and that good cause exists for making it effective on less than 30 days' notice.

In consideration of the foregoing, Special Civil Air Regulation No. SR-446 is superseded by the following Special Civil Air Regulation which is hereby adopted to become effective on May 25, 1962:

No person shall operate, nor shall any operator or pilot in command of an aircraft permit the operation of, a portable frequency modulation (FM) radio receiver on the following civil aircraft of the United States while such aircraft are engaged in flight in air commerce: (a) Aircraft operated by an air carrier or commercial operator; and (b) any other aircraft equipped with VHF omnirange (VOR) navigational equipment while such VOR equipment is being used for navigational purposes.

This special regulation supersedes Special Civil Air Regulation No. SR-446 and shall remain in effect for one year unless sooner superseded or rescinded by the Federal Aviation Agency.

(Secs. 313(a) and 601; 72 Stat. 752, 775; 49 U.S.C. 1354, 1421)

Issued in Washington, D.C., on May 22, 1962.

HAROLD W. GRANT,
Acting Administrator.

[F.R. Doc. 62-5085; Filed, May 24, 1962; 8:51 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 62-WA-37]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

Alteration

On April 24, 1962, F.R. Doc. 62-3933 was published in the FEDERAL REGISTER (27 F.R. 3880) and amended Part 600 of the regulations of the Administrator by designating VOR Federal airways Nos. 802 from Kansas City, Mo., to New York, N.Y., and 804 from New York to Kansas City. These actions are to become effective June 28, 1962. Victor 804 was designated in part from the Clarion, Pa., VOR direct to the Imperial, Pa., VOR. This alignment coincides with the alignment of VOR Federal airway No. 119.

In Airspace Docket No. 61-NY-121, the Federal Aviation Agency is initiating action to alter the alignment of Victor 119 in part from the Imperial VORTAC via the intersection of the Imperial VORTAC 045° and the Clarion VOR 214° radials; to the Clarion VOR. This action is also to be effective June 28, 1962. Accordingly, action is taken herein to alter Victor 804 to conform to the new alignment of Victor 119 between Clarion and Imperial.

Since this alteration is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the effective date as originally published may be retained.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), effective immediately F.R. Doc. 62-3933 (27 F.R. 3880) is amended by altering the text of § 600.6804 as follows: "Clarion, Pa., VOR; Imperial, Pa., VORTAC;" is deleted and "Clarion, Pa., VOR; INT of the Clarion VOR 214° and the Imperial, Pa., VORTAC 045° radials; Imperial VORTAC;" is substituted therefor.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on May 21, 1962.

LEE E. WARREN,
Acting Director,
Air Traffic Service.

[F.R. Doc. 62-5041; Filed, May 24, 1962; 8:45 a.m.]

[Airspace Docket No. 61-HO-4]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Revocation of Segment of Federal Airway, Associated Control Areas and Reporting Point

On February 28, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 1918) stating that the Federal Aviation Agency (FAA) proposed that the segment of Red Federal airway No. 87 (Hawaiian Islands) from the Intersection of the 288° bearing from Port Allen, Hawaii, radio beacon and Long. 161°15′00″ W.; to the Port Allen radio beacon be revoked.

No adverse comments were received regarding this proposal.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for reasons stated herein and in the notice, the following actions are taken:

1. In the text of § 600.287 (26 F.R. 6326), "From the INT of the 288° bearing from the Port Allen, Hawaii, RBN and longitude 161°15′00″ W., via the Port Allen RBN;" is deleted and "From the Port Allen, Hawaii, RBN via the" is substituted therefor.
2. In the text of § 601.4287 (26 F.R. 6326) "INT of the 288° bearing from the Port Allen, Hawaii, RBN and longitude 161°15′00″ W.;" is deleted.

These amendments shall become effective 0001 e.s.t., July 26, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on May 21, 1962.

LEE E. WARREN,
Acting Director,
Air Traffic Service.

[F.R. Doc. 62-5042; Filed, May 24, 1962; 8:45 a.m.]

[Airspace Docket No. 61-WA-180]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Alteration of Control Area Extensions

On January 17, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 476) stating that the Federal Aviation Agency proposed to alter the Orlando, Fla., and the Fort Myers, Fla., control area extensions.

The notice stated that the Fort Myers control area extension would exclude the portion below 2,000 feet MSL. The intent was for this exclusion to apply to that portion of the control area extension which lies outside of the United States. Accordingly, action is taken herein to establish a 2,000 foot MSL floor on only that portion of the Fort Myers control area extension outside of the United States. This provision will allow the retention of a 700-foot floor for that controlled airspace over United States territory heretofore designated as part of the Fort Myers control area extension, and provide for uniformity in the manner of designating controlled airspace floors west and northwest of the Fort Myers VOR. In addition, on March 8, 1962, the Fort Myers VOR was relocated approximately four and one half miles to the northeast, thereby slightly realigning the two airways used in the notice to describe the eastern boundary of the altered Fort Myers control area extension. In order to provide continuity of controlled airspace, these airways are retained in the control area extension description adopted herein.

This action involves the designation of navigable airspace outside the United States. The Administrator has consulted with the Secretary of State and the Secretary of Defense.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following actions are taken:

1. Section 601.1013 (26 F.R. 714, 27 F.R. 562) is amended to read:

§ 601.1013 Control area extension (Fort Myers, Fla.).

The area bounded on the NE by VOR Federal airway No. 35, on the E by VOR Federal airway No. 225 and on the W by the Tampa, Fla., control area extension (§ 601.1228), excluding the portion below 2,000 feet MSL outside the United States and excluding the portion above 20,000 feet MSL S of the Miami, Fla., control area extension (§ 601.1230).

2. Section 601.1138 (26 F.R. 11048, 12073) is amended to read:

§ 601.1138 Control area extension (Orlando, Fla.).

The area NW of Orlando, bounded on the NW by VOR Federal airway No. 97 E alternate, on the E by VOR Federal airway No. 35 W alternate and on the SW by VOR Federal airway No. 97, excluding the portion below, 2,000 feet MSL outside the United States; the area bounded on the N by latitude 29°00′00″ N., on the E by VOR Federal airway No. 267 N of the Orlando, Fla., VOR and VOR Federal airway No. 159 E alternate S of the Orlando VOR, on the S by latitude 27°45′00″ N., and on the W by the arc of a circle with a 50-mile radius centered at latitude 27°53′18″ N., longitude 82°29′29″ W., and VOR Federal airway No. 97; and the area W of Vero Beach, Fla., bounded on the N by latitude 27°-45′00″ N., on the NE by VOR Federal airway No. 295, on the SE by VOR Federal airway No. 225, and on the W by VOR Federal airway No. 267. The portion within R-2910 shall be used only after obtaining prior approval from the appropriate authority.

These amendments shall become effective 0001 e.s.t., July 26, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on May 21, 1962.

LEE E. WARREN,
Acting Director,
Air Traffic Service.

[F.R. Doc. 62-5043; Filed, May 24, 1962; 8:45 a.m.]

[Airspace Docket No. 61-NY-105]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Alteration of Control Zone

On March 6, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 2157) stating that the Federal Aviation Agency proposed to alter the Chincoteague, Va., control zone.

No adverse comments were received regarding the proposed amendment.

In the notice, the effective hours of the Chincoteague control zone were proposed in terms of local standard time. However, to preclude repeated rule-making action to accommodate seasonal changes associated with daylight time in this area, action is taken herein to designate the effective hours of the control zone in terms of local time without reference to the term "standard."

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, § 601.2205 (14 CFR 601.2205) is amended to read:

§ 601.2205 Chincoteague, Va., control zone.

Within a 5-mile radius of NASA Wallops Station Airport, Va. (latitude 37°-56′15″ N., longitude 75°28′15″ W.), and within 2 miles either side of the Snow Hill, Md., VOR 181° radial extending from the 5-mile radius zone to the VOR, excluding the portion which coincides with R-6604. This control zone shall be effective from 0800 to 1700 hours, local time, Monday through Friday, excluding Federal legal holidays.

This amendment shall become effective 0001 e.s.t., July 26, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on May 21, 1962.

LEE E. WARREN,
Acting Director,
Air Traffic Service.

[F.R. Doc. 62-5044; Filed, May 24, 1962; 8:45 a.m.]

[Airspace Docket No. 61-NY-123]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Designation of Transition Areas

On March 9, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 2293) stating that the Federal Aviation Agency proposed to designate the Watkins Glen, N.Y., transition area and the Elkland, Pa., transition area.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, Part 601 (14 CFR Part 601) is amended by adding the following sections:

§ 601.10956 Watkins Glen, N.Y., transition area.

That airspace extending upward from 1,200 feet above the surface within 7 miles NE and 10 miles SW of the Watkins Glen, N.Y., VOR 120° and 300° radials extending from 9 miles SE to 20 miles NW of the VOR.

§ 601.10957 Elkland, Pa., transition area.

That airspace extending upward from 1,200 feet above the surface within 7 miles NW and 11 miles SE of the Elmira, N.Y., VOR 252° radial extending from 9 miles SW to 40 miles SW of the VOR excluding the portion which coincides with the Slate Run, Pa., transition area (§ 601.10836), and the Stonyfork, Pa., transition area (§ 601.10914).

These amendments shall become effective 0001 e.s.t., July 26, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on May 21, 1962.

LEE E. WARREN,
Acting Director,
Air Traffic Service.

[F.R. Doc. 62-5045; Filed, May 24, 1962; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7769]

PART 13—PROHIBITED TRADE PRACTICES

Damar Products, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service:* § 13.170-74 *Reducing, non-fattening, low-calorie, etc.;* § 13.170-78 *Renewing, restoring.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Damar Products, Inc., et al., Elizabeth, N.J., Docket 7769, Dec. 6, 1961]

In the Matter of Damar Products, Inc., a Corporation, Also Doing Business as Mrs. Dorothy Damar, and David W. Margulies, Francis D. Margulies, and Isaac G. Margulies, Individually and as Officers of Said Corporation

Order requiring Elizabeth, N.J., sellers of a device designated as a "Cushion

Vibrator", and as a "Salon Vibrator" when sold in connection with their "Salon Vibrator Plan" which provided for a low-calorie diet, to cease representing falsely in advertising that the device and "Plan" would cause a reduction in body weight and would tone and firm sagging muscles.

The order to cease and desist is as follows:

Upon the foregoing findings of fact and conclusions of law, *It is ordered*, That respondents Damar Products, Inc., a corporation, and its officers, and David W. Margulies, individually and as an officer, and Francis D. Margulies and Isaac G. Margulies, as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the device designated "Cushion Vibrator" and "Salon Vibrator," or any other device of substantially the same construction, design or operation, whether sold under the same or any other name or names, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or by implication:

(a) That said device is of value in causing a reduction in weight in any area of the body or in the overall body weight; or that the use of said device in conjunction with a plan which provides for a low-calory diet will cause any reduction in weight in any area of the body or in the overall body weight, unless it is clearly stated that any reduction in weight will be solely by reason of the diet; (b) That said device, used separately or as part of a plan requiring a restricted diet or as part of any other plan, will tone or firm muscles;

2. Disseminating or causing to be disseminated by any means any advertisement for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of said device in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representations prohibited in Paragraphs 1 (a) or 1(b) hereof.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to Francis D. Margulies and Isaac G. Margulies, in their respective individual, but not in their official, capacities.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: December 6, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-5055; Filed, May 24, 1962; 8:46 a.m.]

[Docket 8066 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Vincent W. Degaro et al.

Subpart—Discriminating in price under Sec. 2, Clayton Act—Payment or acceptance of commission, brokerage or other compensation under 2(c): § 13.820 *Direct buyers;* § 13.822 *Lowered price to buyers.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 2, 49 Stat. 1527; 15 U.S.C. 13) [Cease and desist order, Vincent W. Degaro et al. doing business as M. Degaro Company, Cincinnati, Ohio, Docket 8066, Dec. 9, 1961]

In the Matter of Vincent W. Degaro, Mike Degaro, Joe Degaro, Vincent J. Degaro, Charles R. Degaro, Michael V. Degaro, and Joseph W. Degaro, Jr., Individually and as Copartners Doing Business as M. Degaro Company

Consent order requiring Cincinnati distributors of citrus fruit and other food products to cease violating section 2(c) of the Clayton Act by receiving and accepting allowances from suppliers on purchases for their own accounts for resale, such as a discount, usually at the rate of 10 cents per 1⅗ bushel box of citrus fruit, from Florida packers, or a lower price reflecting such allowance or brokerage.

The order to cease and desist is as follows:

It is ordered, That respondents Vincent W. Degaro, Mike Degaro, Vincent J. Degaro, Charles R. Degaro, Michael V. Degaro, and Joseph W. Degaro, Jr., individually and as copartners doing business as M. Degaro Company, and respondents' agents, representatives, and employees, directly or through any corporate, partnership, sole proprietorship or other device, in connection with the purchase of citrus fruit or other food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from: Receiving or accepting, directly or indirectly, from any seller, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any purchase of citrus fruit or other food products for respondents' own account, or where respondents are the agents, representatives, or other intermediaries acting for or in behalf, or are subject to the direct or indirect control, of any buyer.

It is further ordered, That the complaint herein be, and it hereby is, dismissed as to respondent Joe Degaro.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the above-named respondents except Joe Degaro shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: December 8, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-5056; Filed, May 24, 1962; 8:47 a.m.]

[Docket 8152]

PART 13—PROHIBITED TRADE PRACTICES

Master Merchandise Corp. et al.

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices:* § 13.155–45 *Fictitious marking.* Subpart—Furnishing means and instrumentalities of misrepresentation or deception; § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception;* § 13.10–55–50 *Preticketing merchandise misleadingly.* Subpart—Misbranding or mislabeling: § 13.1325 *Source or origin:* § 13.1325–70 *Place:* § 13.1325–70(a) *Domestic product as imported.* Subpart—Misrepresenting oneself and goods—Prices: § 13.1811 *Fictitious preticketing.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Ceast and desist order, Master Merchandise Corporation et al., New York, N.Y., Docket 8152, Dec. 1, 1961]

In the Matter of Master Merchandise Corporation and Codell, Inc., Corporations, and Morris Pearlman, Individually and as an Officer of Said Corporations

Order, issued in default, requiring New York City distributors of perfume to jobbers and retailers to cease using fictitious prices and misrepresenting the place of origin by such practices as printing on stickers attached to the packaging cartons of perfumes, $18.50, and on circulars "Retail Price 1 FL. OZ. $18.50"; and printing on stickers on cartons "Concentre fabrique avec essences de France" in connection with the tricolor of France, and the brand names "Rue De L'Amour" and "Cafe Rouge".

The order to cease and desist is as follows:

It is ordered, That respondents Master Merchandising Corporation, a corporation, and Codell, Inc., a corporation, and their officers, and Morris Pearlman, individually and as an officer of said corporations, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of perfumes, or related products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, on tags attached to the cartons in which their products are packaged, in advertising of their said products, or by any other manner or means, that any amount is the retail price of their products when such amounts are in excess of the prices at which said products are usually and customarily sold at retail.

2. Using the words or terms "Concentre fabrique avec essences de France," "Paris," "Rue De L'Amour," "Cafe Rouge" or the tricolor of France or any other French word, term or depiction in connection with products not compounded in France or representing in any other manner, directly or indirectly, that any product compounded in the United States is compounded in France.

3. Placing in the hands of others any means or instrumentality by and through which they may mislead the public as to any of the matters and things set out in Paragraphs 1 and 2 hereof.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: December 1, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-5057; Filed, May 24, 1962; 8:47 a.m.]

[Docket 8220 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Leslie Salt Co.

Subpart—Acquiring stock or assets of competitor: § 13.5 *Acquiring stock or assets of competitor.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731; 15 U.S.C. 18) [Order to divest and cease and desist, Leslie Salt Co., San Francisco, Calif., Docket 8220, Dec. 9, 1961]

Consent order requiring the largest producer of salt on the Pacific coast, with evaporated salt capacity in excess of 1,000,000 tons annually before the acquisition concerned, to sell a former competitor it acquired on December 1, 1958, and forbidding it to acquire any interest in any domestic salt producer or distributor for the next ten years; and dismissing a charge of illegality in its acquisition in April 1959 of the final one-third stock interest in the second largest producer of salt and the largest producer of rock salt in California, two-thirds of the stock of which it owned previously.

The order to divest and to cease and desist is as follows:

It is ordered, That respondent, Leslie Salt Co., shall divest itself absolutely in good faith, as a unit and to the same purchaser, of all of its right, title, and interest in all assets, properties, rights, leases, and privileges acquired by it from Deseret Salt Company under that certain "Agreement For The Sale of the Business and Operating Assets of Deseret Salt Company," dated October 24, 1958, together with all capital improvements made by respondent to said properties, which assets, properties, rights, leases, privileges and improvements are more particularly described and set forth in Schedules A and B attached hereto and made a part hereof upon the terms and conditions hereinafter set forth:

A. The divestiture of the subject properties shall be by sale to be made by respondent, without expense to the Commission, through a qualified sales agent to be appointed by respondent.

1. Respondent shall publicize the availability for sale and promote the expeditious sale of the subject properties.

2. Respondent shall appoint the First Security Bank of Utah, Salt Lake City, Utah, as sales agent for the purpose of effecting the sale of the assets, properties, rights, leases and privileges listed in Schedules A and B. The compensation to be paid such sales agent (including reimbursement for expenses incurred) shall all be paid by respondent, except for any brokerage, commission or fees that will be charged by said agent at the time of eventual sale, which commission shall be paid out of the selling price and shall not exceed five percent (5%) of the selling price of said assets, properties, rights, leases and privileges.

3. In the event that the Commission declines to approve respondent's said nominee, then within thirty (30) days after receipt of notice of such disapproval respondent shall submit to the Commission in writing the names of three additional qualified persons or institutions, together with a statement of the compensation to be paid to each for acting as sales agent and from which panel the Commission shall select the sales agent hereunder. In the event the sales agent is not selected from the first panel submitted, additional panels of qualified persons or institutions will be submitted from which the Commission may select the sales agent hereunder.

4. Upon receipt of notice of the Commission's approval of its nominee or notice of the selection of the sales agent from the names submitted by respondent, respondent shall constitute such person or institution so designated as its irrevocable sales agent for a period of five (5) years from the date of this Order to forthwith undertake its best efforts to sell the assets, properties, rights, leases and privileges designated in Schedules A and B upon the terms and conditions hereinafter specified.

5. If after the appointment of the sales agent, said agent should become incapacitated, unable or unwilling to discharge the foregoing obligations as sales agent hereunder, or if the sales efforts of respondent or said sales agent shall not be satisfactory to the Commisison, respondent shall secure the appointment of a successor agent in the manner provided above for the appointment of such agent in the first instance.

B. The assets, properties, rights, leases and privileges designated in Schedules A and B shall be sold to a buyer to be approved by the Commission upon the terms and conditions hereinafter set forth.

1. For a period of six (6) months from the date of appointment, respondent or said sales agent shall offer the said assets, properties, rights, leases, and privileges for sale, for cash, at the highest available price which shall in no event, after deduction of agent's commission, brokerage or other sales compensation together with closing expenses, produce a net return to respondent of less than Six Hundred Thousand Dollars ($600,000).

2. If at the expiration of six (6) months from the date of appointment of said sales agent the assets, properties, rights, leases, and privileges hereinabove referred to and more particularly described in Schedules A and B have not been sold at the price provided for in Paragraph B1, above, then and in such event the respondent or its sales agent shall offer said assets and properties for sale, for cash, at the highest available price which shall in no event, after deduction of the agent's commission, brokerage or other sales compensation together with closing expenses, produce a net return to respondent of less than Four Hundred Fifty Thousand Dollars ($450,000).

3. Respondent shall accept any offer received by it or its sales agent which conforms to the minimum terms of sale specified by this order, provided said offer is first approved by the Commission.

4. Any sale made by respondent or said sales agent under the provisions of either Paragraph B1 or B2 herein shall be upon the condition that the buyer purchases at the same time from respondent, for cash in an amount equal to respondent's costs of production thereof as certified by Messrs. Haskins & Sells (respondent's independent public accountants), all inventories of unpackaged and unprocessed crude salt then located at respondent's Lakepoint, Utah, plant, it being understood that respondent shall have the right to remove from the premises all inventories of packaged and processed salt (including blocks) located at the said plant.

5. Respondent, at buyer's option to be exercised by written notice to respondent at the time of purchase, will purchase for a period of two (2) years subsequent to the closing date of the purchase, an amount designated by buyer not to exceed 25,000 tons of salt per year, which shall be delivered, processed and packaged pursuant to respondent's instructions and which shall be of a merchantable quality equivalent to that previously produced by respondent at its Lakepoint, Utah, plant. The purchase price to be paid by respondent for such salt delivered over a reasonable time at said plant shall be as follows:

(a) For crude unprocessed salt respondent shall pay buyer a price per ton equal to that certified by Haskins & Sells pursuant to the provisions of Paragraph B4 hereof, plus 30 percent.

(b) For processed and packaged salt (including blocks) respondent shall pay to buyer the list f.o.b. plant price then prevailing in the Utah area, less 30 percent.

In the event that buyer does not exercise said option that respondent purchase said salt from buyer, then and in such event, the sale pursuant to provisions of Paragraphs B1 or B2 shall be conditioned upon buyer's agreement to sell to respondent at the price hereinbefore designated in this paragraph not to exceed 12,500 tons of such salt during the six (6) months period following the closing date of purchase.

6. For a period of one (1) year following the date of this order respondent shall not make any improvements or additions to the properties hereinabove referred to, other than those necessary for maintenance of the plant for normal and ordinary operations. During the next four (4) years respondent shall make no capital improvements or additions to the said properties except for capital replacements necessary for the operation of said facilities in an aggregate amount not exceeding in any year Twenty Thousand Dollars ($20,000) and such capital improvements or additions as the sales agent and the Commission shall approve. The value of any such capital improvements or additions placed upon said properties and facilities are to be added to the selling price hereinabove set forth in Paragraphs B1 or B2 at the depreciated book value thereof on the date of closing or at an amount equal to five-sevenths (5/7) of the cost thereof, whichever is less.

7. The respondent or sales agent shall make no sale of the properties and facilities herein referred to without first receiving written approval of the purchaser from the Commission.

8. Pending the sale of said properties pursuant to the provisions of paragraph B1 or B2 hereof, respondent may continue its operations on said property in the normal course of business.

9. None of said assets, properties, rights, leases and privileges, tangible or intangible, shall be sold or transferred to anyone who, at the time of the divestiture is a stockholder, officer, director, employee or agent of, or otherwise directly or indirectly connected with, or under the control of respondent or any of respondent's subsidiaries or affiliated companies.

10. Pending the sale of said properties pursuant to the provisions of Paragraph B1 or B2 hereof, respondent shall submit to the Commission quarterly reports describing the action that has been taken and the efforts that have been made to sell the subject properties. Such reports shall indicate the methods and means employed to effectuate a sale, the results of such actions and efforts and shall set forth the name and address of each person or company contacted, or who has indicated any interest in acquiring said properties, together with copies of all correspondence and summaries of all oral communications with such persons or companies.

Provided, however, and notwithstanding anything hereinbefore set forth in this order, in the event that the respondent's bona fide efforts to sell the properties hereinabove referred to have been unsuccessful and have not resulted in any such sale within a period of five (5) years following the effective date of the appointment of a sales agent as herein provided for, then in such event respondent shall be relieved of any obligation under this order requiring respondent to sell, dispose of, or divest itself of any of the properties herein described in Schedules A and B.

It is further ordered, That for a period of ten (10) years from the date of the issuance of this order by the Federal Trade Commission, respondent shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, by merger, consolidation, or purchase, the assets, stock, share capital, or any other interest of any person, partnership, firm or corporation in the United States engaged in the business of producing and/or distributing salt in any form.

It is further ordered, That the charges set forth in the allegations of the Complaint that respondent's acquisition of stock, assets and business of California Salt Company violated section 7 of the Clayton Act and any amendments thereto, be and the same are hereby dismissed.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondent shall file with the Commission such reports in writing, setting forth in detail the manner and form in which it has complied with said order, as are required by the initial decision.

Issued: December 8, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-5058; Filed, May 24, 1962; 8:47 a.m.]

Title 18—CONSERVATION OF POWER

Chapter I—Federal Power Commission

[Docket No. R-208; Order No. 246]

PART 45—APPLICATION FOR AUTHORITY TO HOLD INTERLOCKING POSITIONS

Interlocking Directorate Applications; Order Prescribing Revised Form

MAY 21, 1962.

The Commission has under consideration in this proceeding the amendment of Part 45 of its regulations under the Federal Power Act by revising § 45.8 thereof entitled "Contents of Application" to read as set forth below. The section prescribes the basic information which is to be submitted in support of applications for authorization, pursuant to section 305(b) of the Federal Power Act, to hold the positions of officer or director of more than one public utility, or of a public utility and a firm authorized to underwrite or participate in the marketing of public utility securities, or of a public utility and a firm engaged in supplying electrical equipment to such public utility.

The amendments herein adopted are designed to delete subsections requiring the submission of information already on file with or readily available to the Commission and to simplify the format in which the required information must be submitted, encouraging the use of tables and eliminating the necessity for repetition of information applicable to more than one corporation or firm. The adoption of the amendments will result in a substantial reduction in the time and effort required to prepare applications filed in the future and in a reduction in size of most applications by approximately 50 percent, particularly when a holding company system is involved.

General public notice of the proposed rulemaking was given by publication of notice in the FEDERAL REGISTER, on March 10, 1962 (27 F.R. 2325), and by mailing copies thereof to interested persons, including public utilities, and to State and Federal agencies. Several comments were received—all of them favoring the proposed revision. Pennsylvania Power & Light Company further suggested the adoption of a procedure which would provide for automatic approval by the Commission of interlocking directorates which fall within certain prescribed categories. We are of the opinion that a procedure for automatic approval of positions in interlocking directorates is not contemplated by section 305(b) of the Act, since it requires that the granting of such authorization shall be by order of the Commission only upon due showing that neither public nor private interests will be adversely affected. New England Power Service Company suggested that paragraph (a)(3) require the applicant to make reference only to the last application filed, rather than to all previous applications. We are changing paragraph (a)(3) accordingly, and, with that exception, adopting the revision as originally proposed in the notice.

The Commission finds: Adoption and promulgation of the proposed amendments are necessary and appropriate for the purposes of administration of the Federal Power Act.

The Commission, acting pursuant to authority granted by the Federal Power Act, as amended, and particularly sections 305(b) and 309 thereof (16 U.S.C. 825d, 825h), orders:

(A) Section 45.8 entitled "Contents of application", of the Commission's Regulations under the Federal Power Act (18 CFR 45.8) is hereby amended to read as set forth below.

(B) These amendments to the Commission's Regulations under the Federal Power Act, shall become effective June 20, 1962.

(C) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

§ 45.8 Contents of application.

Each application shall state the following:

(a) *Identification of applicant.* (1) Full name, business address, and place of residence.

(2) Major business or professional activity.

(3) If former application or applications under section 305(b) of the Act have been made by the applicant, give date and docket number of the last application filed.

(4) If application is not filed with the Commission within 30 days after election or appointment, state reasons in full for the delay.

(b) *List of positions within the purview of section 305(b) of the act for which authorization is sought.* (Indicate by asterisk positions which were the subjects of previous authorizations.)

Position	Name of corporation	Classification: (1) Public utility, (2) authorized by law to underwrite, (3) supplying electrical equipment

(c) *Data as to positions with each public utility mentioned in paragraph (b) of this section.* (The format should be adapted to the information submitted, in keeping with completeness and conciseness. In the case of public utilities of the same holding company system, brevity will generally be promoted by submitting the information for all of the utilities involved under each subsection progressively in the order of the subsections, utilizing tables when feasible.)

(1) Name, principal place of business, and a brief description of operations.

(2) Date elected or appointed, or anticipated date of election or appointment, to each position not previously authorized.

(3) Names of officers and directors; number of vacancies, if any, on Board of Directors.

(4) Description of applicant's duties: Approximate amount of time devoted thereto; and, if applicant seeks authorization as a director, when and where directors meetings have been held during the past 12 months and number of such meetings attended by applicant.

(5) All other professional, contractual, or business relationships of applicant with the public utility, either directly or through other corporations or firms.

(6) Extent of applicant's direct or indirect ownership, control of, or beneficial interest in the public utility or the securities thereof. If ownership or interest is held in a name other than that of applicant, state name and address of the holder.

(7) Extent of applicant's indebtedness to the public utility, how and when incurred, and consideration therefor.

(8) All money or property received by applicant from the public utility or any affiliate during the past 12 months, and expected during the ensuing 12 months, whether for services, reimbursement of expenses, or otherwise. Specify in detail the amount thereof and the basis therefor. If applicant's compensation for services to the public utility is not paid directly by the public utility, give name of the corporation which does pay same, the amount allocated or allocable to the public utility or any affiliate, and the basis or reason for such allocation.

(9) Name and address of principal place of business of any corporation which renders management, construction or other service to the public utility pursuant to contract or other continuing arrangement.

(10) Whether during the past 5 years the public utility or any affiliate thereof or any security holders of either have commenced any suit against the officers or directors thereof for alleged waste, mismanagement or violation of duty, to which suit applicant was a party defendant. If so, give date of commencement of suit, court in which commenced, and present status.

(11) Whether the public utility or any affiliate thereof, during the past 5 years and while applicant held a position therein, has either voluntarily or involuntarily been the subject of any proceeding in bankruptcy (including 77(b), 48 Stat. 912; 11 U.S.C. 207), insolvency or equity receivership, either Federal or State. If so, give date of commencement of proceeding, court in which commenced, and present status.

(d) *Data as to positions with each bank, trust company, banking association or firm, mentioned in paragraph (b) of this section, that is authorized by law to underwrite or participate in the marketing of securities of a public utility.* (The applicant shall use a separate sheet for each corporation.)

(1) Name of corporation, State, and date of incorporation (if any) and address of principal place of business.

(2) States in which corporation is doing business or has qualified to do business.

(3) Positions which applicant holds or seeks authorization to hold therein and when and by whom elected or appointed to each position.

(4) Description of applicant's duties in each position and approximate amount of time devoted thereto, and, if applicant seeks authorization as director, where directors meetings are held.

(5) Extent of applicant's direct or indirect ownership, or control of, or beneficial interest in, the company or in the securities thereof, including common stock, preferred stock, bonds, or other securities. If such ownership or interest is held in a name other than that of applicant, state name and address of such holder.

(6) All money or property received by applicant from the company during the past 12 months, and expected during the ensuing 12 months whether for services, reimbursement for expenses, or otherwise. Specify in detail the amount thereof and the basis therefor.

(7) Names, titles, and residence addresses of directors, officers, or partners.

(8) Whether the corporation is now engaged in underwriting or participating in the marketing of the securities of a public utility; if so, to what extent.

(9) Whether the corporation, during applicant's connection therewith, has underwritten or participated in the marketing of the security issue of any public utility with which applicant was also connected; if so, the details with respect to every such transaction.

(10) (If the answer to subparagraph (8) of this paragraph is in the negative.) Give excerpts from the charter, declaration of trust, or articles of partnership which authorize the underwriting or participating in the marketing of securities of a public utility.

(11) (If the answer to subparagraph (8) of this paragraph is in the negative.) Give general requirements of and appropriate reference to, the laws of the State of organization and of States in which corporation is doing business or has qualified to do business, with which it must comply in order to engage in the business of underwriting or participating in the marketing of the securities of a public utility.

(12) What steps, if any, have been taken to comply with laws mentioned in subparagraph (11) of this paragraph.

(13) In lieu of subparagraphs (10), (11), and (12) of this paragraph, an opinion by counsel to the same effect and including the information in respect thereto may be filed with the application.

(14) Whether the corporation has registered with the Securities and Exchange Commission; if so, when and under what section of what act.

(e) *Data as to positions with each company, mentioned in paragraph (b) of this section, supplying electrical equipment to a public utility in which applicant holds a position.* (Applicant shall use a separate sheet for each company.)

(1) Name of company, State, and date of incorporation (if any), and address of principal place of business.

(2) Positions which applicant holds or seeks authorization to hold therein and when and by whom elected or appointed to each position.

(3) Description of applicant's duties in each position and approximate amount of time devoted thereto, and, if applicant seeks authorization as director, when and where directors meeting have been held during the past 12 months and number of said meetings attended by applicant.

(4) Names, titles, and residence addresses of directors or partners.

(5) Name of each public utility, with which applicant holds or seeks authorization to hold a position, to which the company supplies electrical equipment; the frequency of such transactions; the approximate annual dollar volume of such business; and the type of equipment supplied.

(6) Nature of relationship between the company supplying electrical equipment and the public utility:

(i) Whether compony manufactures such electrical equipment or is a dealer therein.

(ii) Whether company supplies electrical equipment to the public utility pursuant to construction, service, agency, or other contract with the public utility or an affiliate thereof, and, if so, furnish brief summary of the terms of such contract.

(7) Extent of applicant's direct or indirect ownership, or control of, or beneficial interest in, the company or in the securities thereof, including common

stock, preferred stock, bonds, or other securities. If such ownership or interest is held in a name other than that of applicant, state name and address of such holder.

(8) All money or property received by applicant from the company during the past 12 months, and expected during the ensuing 12 months whether for services, reimbursement for expenses, or otherwise. Specify in detail the amount thereof and the basis therefor.

(f) *Data as to positions with public utility holding companies.* (Do not include here data as to corporations listed in paragraph (b) of this section which are also holding companies. A "holding company" as herein used means any corporation which directly or indirectly owns, controls, or holds with power to vote, 10 per centum or more, of the outstanding voting securities of a public utility.)

(1) Name of holding company, State, and date of incorporation (if any), and address of principal place of business.

(2) Positions which applicant holds therein, when and by whom elected or appointed to each position.

(3) Extent of applicant's direct or indirect ownership, or control of, or beneficial interest in, the holding company or in the securities thereof, including common stock, preferred stock, bonds, or other securities. If such ownership or interest is held in a name other than that of applicant, state name and address of such holder.

(4) All money or property received by applicant from the holding company during the past 12 months, and expected during the ensuing 12 months, whether for services, reimbursement for expenses, or otherwise. Specify in detail the amount thereof and the basis therefor.

(g) *Positions with all other corporations.* (Do not include here data as to any corporations listed in paragraphs (b) or (f) of this section.)

(1) All other corporations and positions therein, including briefly the information required in parallel columns as below:

Name of corporation	Address: Kind of business	Position held therein

(2) Any corporate, contractual, financial, or business relationships between any of the corporations listed in subparagraph (1) of this paragraph and any of the public utilities listed in paragraph (b) of this section.

(h) *Data as to the public utility holding company system.* The names of the public utility holding company systems of which each public utility listed in paragraph (b) of this section is a part, with a chart showing the corporate relationships existing between and among the corporations within the holding company systems.

(Secs. 305(b), 309, 49 Stat. 856, 858; 16 U.S.C. 825d(b), 825h)

[F.R. Doc. 62-5053; Filed, May 24, 1962; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Tolerance for Residues of Toxaphene

A petition was filed with the Food and Drug Administration by Hercules Powder Company, Wilmington, Delaware, requesting the establishment of a tolerance for residues of the insecticide toxaphene in or on pineapples at 3 parts per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which a tolerance is being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerance established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities are amended by changing the introduction to § 120.138 (21 CFR 120.138) and by adding thereto a tolerance for the insecticide in or on pineapples. As amended, the introduction to the section and the item "3 parts per million * * *" are changed to read as follows:

§ 120.138 Tolerances for residues of toxaphene.

Tolerances are established for residues of the insecticide toxaphene (chlorinated camphene containing 67 percent-69 percent chlorine) in or on raw agricultural commodities from preharvest or preslaughter application, as follows:

* * * * *

3 parts per million in or on bananas (of which residue not more than 0.3 part per million shall be in the pulp after the peel is removed and discarded), pineapples.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: May 21, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-5063; Filed, May 24, 1962; 8:48 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Tolerance for Residues of 1-Naphthyl *N*-Methylcarbamate

A petition was filed with the Food and Drug Administration by Union Carbide Corporation, 270 Park Avenue, New York, N.Y., requesting the establishment of a tolerance for residues of the insecticide 1-naphthyl *N*-methylcarbamate in or on olives at 10 parts per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which a tolerance is being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerance established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(2), 68 Stat. 512; 21 U.S.C. 346a (d)(2)) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities are amended by changing the introduction to § 120.169 (21 CFR 120.169; 27 F.R. 823) and by adding thereto a tolerance for the insecticide in or on olives. As amended, the introduction to the section and the item "10 parts per million * * *" are changed to read as follows:

§ 120.169 Tolerances for residues of 1-naphthyl *N*-methylcarbamate.

Tolerances are established for residues of the insecticide 1-naphthyl *N*-methylcarbamate, including its hydrolysis product 1-naphthol calculated as 1-naphthyl *N*-methylcarbamate, in or on raw agricultural commodities as follows:

* * * * *

10 parts per million in or on apples, apricots, asparagus, bananas, beans, blueberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, cherries,

citrus fruits, cranberries, cucumbers, eggplants, grapes, kohlrabi, lettuce, melons, nectarines, okra, olives, peaches, pears, peppers, plums (fresh prunes), pumpkins, sorghum grain, strawberries, summer squash, tomatoes, winter squash.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: May 21, 1962.

JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

[F.R. Doc. 62-5079; Filed, May 24, 1962; 8:50 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Animal Feed and Animal-Feed Supplements

MALATHION

The Commissioner of Food and Drugs, having evaluated comments submitted by American Cyanamid Company, P.O. Box 400, Princeton, New Jersey, has concluded that the following amendment to § 121.228 of the food additive regulations should issue to clarify the existing regulation. Therefore, pursuant to the provisions of the Federal Food, Drug and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.228 (21 CFR 121.228; 27 F.R. 3441) is amended to read as follows:

§ 121.228 Malathion.

A tolerance of 50 parts per million (0.005 percent) is established for residues of malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate) in dehydrated citrus pulp for cattle feed, when present therein as a result of the application of the pesticide to bagged citrus pulp during storage. Whether or not tolerances for residues of malathion on the fresh fruit have been established under section 408 of the act, the total residue of malathion in the dried citrus pulp shall not exceed 50 parts per million.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since the purpose of this amendment is to clarify an existing regulation.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: May 21, 1962.

JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

[F.R. Doc. 62-5076; Filed, May 24, 1962; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Animal Feed or Animal-Feed Supplements

SILICON DIOXIDE

The Commissioner of Food and Drugs, having evaluated the data submitted in petitions filed by the Catalin Corporation of America, Fords, New Jersey, Davison Chemical Company, Division of W. R. Grace and Co., Baltimore 3, Maryland, E. I. du Pont de Nemours and Sons, Inc., Wilmington 99, Delaware, and Pennsylvania Glass Sand Corporation, Hancock, West Virginia, and other relevant material, has concluded that the following food additive regulation should issue with respect to the use of silicon dioxide in feed and feed components. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), the food additive regulations (21 CFR Part 121) are amended by adding to Subpart C the following new section:

§ 121.229 Silicon dioxide.

The food additive silicon dioxide may be safely used in specified feed and feed components in accordance with the following conditions:

(a) The food additive is manufactured by vapor phase hydrolysis or by other means whereby the particle size is such as to accomplish the intended effect.

(b) It is used or intended for use in feed and feed components as an anticaking agent, and/or grinding aid, as follows:

Feed component:	*Limitations (percent)*
BHT (butylated hydroxytoluene)	2
Methionine hydroxy analog and its calcium salts	1
Sodium propionate	1
Urea	1
Vitamins	3

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: May 21, 1962.

JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

[F.R. Doc. 62-5077; Filed, May 24, 1962; 8:50 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Animal Feed or Animal-Feed Supplements

Subpart D—Food Additives Permitted in Food for Human Consumption

ETHYL CELLULOSE

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Hercules Powder Company, Inc., 910 Market Street, Wilmington 99, Delaware, and other relevant material, has concluded that the following regulations should issue to provide for the safe use of ethyl cellulose as a component of protective coatings and as a binder and filler for vitamin and mineral preparations for human and animal use. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), the food additive regulations (21 CFR Part 121) are amended as set forth below:

1. Subpart C is amended by adding thereto the following new section:

§ 121.230 Ethyl cellulose.

The food additive ethyl cellulose may be safely used in animal feed in accordance with the following prescribed conditions:

(a) The food additive is a cellulose ether containing ethoxy (OC_2H_5) groups attached by an ether linkage and containing on an anhydrous basis not more than 2.60 ethoxy groups per anhydroglucose unit.

(b) It is used or intended for use as a binder or filler in dry vitamin preparations to be incorporated into animal feed.

2. Subpart D is amended by adding thereto the following new section:

§ 121.1087 Ethyl cellulose.

The food additive ethyl cellulose may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is a cellulose ether containing ethoxy (OC_2H_5) groups attached by an ether linkage and containing on an anhydrous basis not more than 2.60 ethoxy groups per anhydroglucose unit.

(b) It is used or intended for use as follows:

(1) As a binder and filler in dry vitamin preparations.

(2) As a component of protective coatings for vitamin and mineral tablets.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: May 21, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-5075; Filed, May 24, 1962; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

SILICON DIOXIDE

The Commissioner of Food and Drugs, having evaluated the data submitted in petitions filed by Davison Chemical Co., Division of W. R. Grace and Co., Baltimore 3, Maryland, Monsanto Chemical Company, 800 North Lindbergh Boulevard, St. Louis 66, Missouri, and Pennsylvania Glass Sand Corporation, Hancock, West Virginia, and other relevant material, has concluded that the following amendment should issue to § 121.1058 of the food additive regulations for silicon dioxide in specified foods. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.1058 (21 CFR 121.1058) is amended by changing the section heading, by providing for other methods of manufacturing silicon dioxide, and by providing for its use in other specified foods. As amended, § 121.1058 reads as follows:

§ 121.1058 Silicon dioxide.

The food additive silicon dioxide may be safely used in specified foods in accordance with the following conditions:

(a) The food additive is manufactured by vapor phase hydrolysis or by other means whereby the particle size is such as to accomplish the intended effect.

(b) It is used or intended for use in food as an anticaking agent as follows:

Food:	*Limitations (percent)*
Salt and seasoned salt	1
Sodium bicarbonate	1
Vitamin products	0.5
Special dietary products	0.75
Spices	2
Meat curing compounds	2
Flavoring powders	2

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: May 21, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-5078; Filed, May 24, 1962; 8:50 a.m.]

SUBCHAPTER C—DRUGS

PART 141d—CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

Chloramphenicol-Paromomycin Ointment; Correction

Effective as of the date of signature of this order, paragraph (a)(1)(ii)(c) of § 141d.316 *Chloramphenicol-paromomycin ointment* is corrected by changing the beginning of the first formula and the second formula, respectively, to read as follows:

Hydrocortisone content (% weight/weight) =
Chloramphenicol content (% weight/weight) =

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: May 21, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-5074; Filed, May 24, 1962; 8:49 a.m.]

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

Sampling Requirements; Setting of Effective Date

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (25 F.R. 8625), notice is hereby given that no comments were filed on the order published in the FEDERAL REGISTER of March 30, 1962 (27 F.R. 3006), with regard to sampling requirements of penicillin dental cones, suppositories, bougies, and implantation pellets. Accordingly, the amendments promulgated by that order became effective April 29, 1962.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: May 21, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-5080; Filed, May 24, 1962; 8:50 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER B—CLAIMS AND ACCOUNTS

PART 536—CLAIMS AGAINST THE UNITED STATES

Investigating and Processing of Claims

1. Subparagraph (2) of § 536.1(b) is revised to read as follows:

§ 536.1 Purpose and scope.

* * * * *

(b) *Scope.* * * *

(2) *Disaster claims.* Disaster claims and claims arising out of an incident involving an aircraft or missile under the control of the Army or the Army National Guard which are properly for settlement under either §§ 536.12–536.23, 536.29, 536.140–536.152, or § 536.26 will be investigated in accordance with standing operating procedures promulgated for that purpose by the commanding general of an Army or comparable command responsible for the area in which the disaster or aircraft or missile incident occurred. Such claims will be

settled in accordance with applicable regulations and the procedures set forth in this section and §§ 536.2–536.11c.

2. In § 536.3, new paragraph (a–2) is added and paragraph (b)(1) is revised, as follows:

§ 536.3 Definitions and explanations.

* * * * *

(a–2) *Advance payment.* A payment not exceeding $1,000 made prior to settlement of a meritorious claim resulting from an incident involving an aircraft or missile where there exists an immediate need of the person who suffered the injury, damage, or loss, or of his family, or of the family of a person who was killed, for food, clothing, shelter, medical or burial expenses or other necessities, and other resources for such expenses are not reasonably available.

(b) *Civilian employees.* Includes:

(1) Civilian employees of the Army, prisoners of war and interned enemy aliens engaged in labor for pay, volunteer workers, others serving as employees of the Army without compensation, and as to §§ 536.26 and 536.29, civilian employees of the Department of Defense who are not employees of the Department of the Army, the Navy, or the Air Force; and

3. New subparagraph (5) is added to § 536.9(b), as follows:

§ 536.9 Effect on award of other payments to claimant.

(b) * * *

* * * * *

(5) Any advance payment made pursuant to § 536.11c.

4. Section 536.11a is revised and new § 536.11c is added, as follows:

§ 536.11a Effect of payment.

Acceptance of an award by the claimant, except for the acceptance of an advance payment, constitutes for the United States as well as the military personnel or civilian employee whose act or omission gave rise to the claim, a release from all liability to the claimant based on the act or omission.

§ 536.11c Advance payments.

(a) *Purpose.* This paragraph implements title 10, United States Code, section 2736, and authorizes an advance payment not in excess of $1,000 in the limited category of claims resulting in immediate hardship arising from incidents involving aircraft or missiles which are payable under title 10, United States Code, sections 2733 or 2734, or title 32, United States Code, section 715. No new liability is created by title 10, United States Code, section 2736, which permits partial advance payments on meritorious claims as specified above which are otherwise within the purview of §§ 536.12–536.23, 536.140–536.152, or § 536.26.

(b) *Conditions for advance payment.* An advance payment is authorized only under the following circumstances:

(1) The claim for death, personal injury, damage to or loss of property arises from an incident involving an aircraft or missile.

(2) The claim must be determined to be cognizable and meritorious under the provisions of either §§ 536.12–536.23, 536.140–536.152, or § 536.26.

(3) There exists an immediate need of the person who suffered the injury, damage or loss, or of his family, or of the family of a person who was killed, for food, clothing, shelter, medical or burial expenses or other necessities, and other resources for such expenses are not reasonably available.

(4) The payee, so far as can be determined, would be a proper claimant, or is the spouse or next of kin of a claimant who is incapacitated.

(5) The total damage sustained must exceed the amount of the advance payment.

(6) A properly executed advance payment acceptance agreement has been obtained.

(c) *Authorization.* Approving authorities designated in §§ 536.12–536.23, 536.26, and 536.140–536.152 are authorized to make advance payments within their monetary jurisdiction in connection with claims cognizable under those sections.

[C 2, AR 25–20, May 4, 1962] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

J. C. Lambert,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 62–5040; Filed, May 24, 1962; 8:45 a.m.]

PART 536—CLAIMS AGAINST THE UNITED STATES

Miscellaneous Amendments

1. Section 536.12 is revised and new paragraph (f) is added to § 536.14, as follows:

§ 536.12 Statutory authority.

The authority for §§ 536.12–536.23 is contained in title 10, United States Code, section 2733, as amended, and section 2736.

§ 536.14 Claims payable.

* * * * *

(f) *Advance payments in aircraft and missile incidents.* Advance payments pursuant to title 10, United States Code, section 2736, on meritorious claims in connection with immediate hardship arising from incidents involving an aircraft or missile are authorized as provided in § 536.11c.

2. In § 536.26(n), revise subparagraph (9) and add new subparagraph (10), as follows:

§ 536.26 Claims arising in foreign countries.

* * * * *

(n) *Foreign claims commissions.* * * *

(9) *Cross servicing of claims.* Claims arising in foreign countries under the Foreign Claims Act of January 2, 1942 (55 Stat. 880), as amended (31 U.S.C. 224d), and the Act of July 3, 1943, chapter 189 (57 Stat. 372), as amended (31 U.S.C. 223b), and sections 2733 and 2734 of Title 10, United States Code, as amended, will be settled without regard to the service of the tortfeasor. Any claim, whether arising from activities of the Army, Navy, Air Force, Marine Corps, or the Coast Guard, when operating as a service in the Navy, may, upon request by the service concerned, and shall, when the Army has been assigned responsibility for claims in a particular country, be settled under §§ 536.12–536.23 or this section by a foreign claims commission appointed by the Secretary of the Army or his designee. A claim arising from Army activities in an area where another service has been assigned responsibility for claims will be sent to that service for settlement under its regulations.

(10) *Advance payments.* Advance payments pursuant to title 10, United States Code, section 2736, on meritorious claims for compensation for personal injury or death, or property damage, resulting from incidents involving aircraft or missiles, which are otherwise payable under this section, are authorized as provided in § 536.11c. However, no advance payment is authorized if the incident occurred in a foreign country in which the Agreement Regarding the Status of Forces of Parties to the North Atlantic Treaty or other similar treaty or agreement is in effect, and the injury, death, damage, or loss was caused by a member or employee of the Department of the Army acting within the scope of employment, or occurred incident to noncombat activities of the Department of the Army, for which the foreign country concerned has responsibility under the treaty or agreement for the settlement of such scope claims.

3. New paragraph (c) is added to § 536.152, as follows:

§ 536.152 Settlement authority.

* * * * *

(c) *Advance payments in aircraft and missile incidents.* Advance payments pursuant to title 10, United States Code, section 2736, on meritorious claims in connection with immediate hardship arising from incidents involving in aircraft or missile, are authorized as provided in § 536.11c.

[C 1, AR 25–25, C 1, AR 25–40, and C 4, AR 25–90, May 4, 1962] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

J. C. Lambert,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 62–5081; Filed, May 24, 1962; 8:50 a.m.]

Chapter VII—Department of the Air Force

SUBCHAPTER J—AIR FORCE PROCUREMENT INSTRUCTION

MISCELLANEOUS AMENDMENTS

The following miscellaneous amendments and revisions are issued to this subchapter:

PART 1056—CONTRACTS ENTERED INTO UNDER AUTHORITY OF TITLE II, FIRST WAR POWERS ACT, 1941 AS AMENDED

Part 1056 is deleted and reserved.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

PART 1057—REPORTS

Subpart A—Procurement Action Reports

Subpart A is deleted and reserved.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

Subpart W—Report of Effectiveness of Labor Law Enforcement on Air Force Contracts

Subpart W is revised to read as follows:

Sec.
1057.2300 Scope of subpart.
1057.2301 Applicability of subpart.
1057.2302 Responsibilities.
1057.2303 Procedure.
1057.2304 Report to AMC.
1057.2305 Reports control symbol.

AUTHORITY: §§ 1057.2300 to 1057.2305 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133, 10 U.S.C. 2301–2314.

§ 1057.2300 Scope of subpart.

This subpart prescribes the use of AFPI Form 30, "Labor Law Investigation Control," for the recording of data pertaining to a Labor Law Violation Investigation and the submission of a monthly report of effectiveness of labor law enforcement on AF contracts as prescribed in § 1012.404 of this chapter.

§ 1057.2301 Applicability of subpart.

This subpart applies to all AF liaison offices designated in § 1012.404–51 of this chapter.

§ 1057.2302 Responsibilities.

(a) A monthly report as prescribed in paragraph (b) of this section will be prepared and submitted by each AF liaison office to AMC (MCPP) within 2 working days after the last day of the month being reported. Negative reports are required.

(b) MCPP will prepare and submit a consolidated report as of the end of each quarter to reach Hq USAF (AFMPP–PD–2) not later than the 12th calendar day of the month following each quarterly period.

§ 1057.2303 Procedure.

(a) Upon receipt of a complaint of an alleged labor law violation, the front side of AFPI Form 30 will be accomplished as completely as possible in triplicate by the AF liaison officer. Additional information and record of actions will be added as received or as they occur. (The form is self-explanatory.) Record of actions will be posted in very abbreviated form.

(b) The reverse side of AFPI Form 30 will be completed when cases are either closed by AFLO or forwarded to Hq USAF for decision and disposition.

(c) At the end of the reporting period all duplicates of the form will be removed and forwarded to Hq AMC. Triplicates will be forwarded to the appropriate CMR. At this time two AFPI Forms 30, completed only as to contractor's name and AFLO Investigation No., will be attached with interleaved carbon to the original (settled cases or cases forwarded to Hq USAF excepted) and filed for further posting.

§ 1057.2304 Report to AMC.

This report consists of the duplicate AFPI Forms 30 for all cases completed during the reporting month and for all other unsettled cases.

§ 1057.2305 Reports control symbol.

RCS: AF–XDL–Y2 has been assigned to this report.

PART 1059—AIRCRAFT AND GFAE PROCUREMENT

Subpart F—Special Procurements

§ 1059.606 [Deletion]

Delete § 1059.606.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

PART 1060—BALLISTIC MISSILE AND SPACE SYSTEMS PROGRAMS

Part 1060 is deleted.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

For the Secretary of the Air Force.

CARROLL W. KELLEY,
Lieutenant Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 62–5019; Filed, May 24, 1962; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

MISCELLANEOUS AMENDMENTS

1. In § 3.656, paragraphs (a) and (b) are amended as follows:

§ 3.656 Disappearance of veteran.

(a) When an incompetent veteran has disappeared for 90 days or more and his whereabouts remain unknown to the members of his family and the Veterans Administration, disability compensation which he was receiving or entitled to receive may be paid to or for his wife, children and parents, effective the day following the date of last payment to the veteran. Effective September 1, 1959, the provisions of this section are also applicable to the disappearance of a competent veteran. The total amount payable will be the lesser of these amounts:

* * * * *

(b) Where a veteran's whereabouts become known to the Veterans Administration after an award to dependents has been made as provided in this section, the award to the dependents will be discontinued, effective the last day of the month in which the discontinuance action is taken, and appropriate action will be taken to adjust the veteran's award in accordance with the facts found. (38 U.S.C. 358)

2. Section 3.659 is revised to read as follows:

§ 3.659 Two parents in same parental line.

(a) If death pension, compensation or dependency and indemnity compensation is payable based on the service of one parent, an award of such benefits to or on account of a child will be made subject to any payments of these benefits made to or on account of that child over the same period of time based on the service of another parent in the same parental line.

(b) Any reduction or discontinuance will be effective the day preceding the commencing date of death pension, compensation or dependency and indemnity compensation or, under the circumstances described in § 3.707(a)(2), the commencing date of war orphans' educational assistance, to or on account of the child based on the service of another parent in the same parental line.

3. Section 3.1557 is revoked.

§ 3.1557 Payments to wife, child or parent of a competent veteran receiving compensation who disappears, 38 U.S.C. 358, as amended by Public Law 86–212. [Revoked]

(72 Stat. 1114; 38 U.S.C. 210)

These regulations are effective May 25, 1962.

[SEAL] W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 62–5071; Filed, May 24, 1962; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

GLACIER NATIONAL PARK, MONTANA

Boats

Notice is hereby given that pursuant to the authority contained in section 3 of the act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), Departmental Order 2640 (16 F.R. 5846), National Park Service Order No. 14 (19 F.R. 8824), Regional Director, Region Two Order No. 3 (21 F.R. 1494), as amended, it is proposed to amend 36 CFR 7.3 as set forth below. The purpose of this amendment is to establish reasonable regulations which will provide adequate control over boats and insure a maximum of safety in their use.

The notice published in 26 F.R. 5267 is hereby terminated.

It is the policy of the Department of the Interior whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Superintendent, Glacier National Park, West Glacier, Montana, within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

EDWARD A. HUMMEL,
Superintendent,
Glacier National Park.

Paragraph (g) of § 7.3 is amended and revised in its entirety to read as follows:

§ 7.3 Glacier National Park.

* * * * *

(g) *Boats.* (1) No privately owned waterborne craft, including but not limited to boats, canoes, rafts or other floating objects, shall be placed or operated upon the waters of Glacier National Park without a permit from the superintendent, who shall have authority to revoke the permit and require the immediate removal of such waterborne craft upon the failure of the permittee to comply with the terms and conditions of the permit. This permit must be carried within the craft at all times and shall be exhibited upon request to any person authorized to enforce the regulations in this chapter.

(2) Numbering of boats: No waterborne craft propelled by machinery of more than ten (10) horsepower shall be operated upon the waters of the park, unless such craft has been documented by the Bureau of Customs or, if undocumented, has been numbered by the United States Coast Guard or by a state having a numbering system approved by the United States Coast Guard.

(3) Rules of the road: The following rules of the road shall apply:

(i) No person shall operate a waterborne craft of any type or description upon any body of water in the park in a reckless or negligent manner, so as to endanger or be likely to endanger the life, limb or property of any person.

(ii) In narrow channels, boats or other craft shall be operated to the right of the middle of the channel.

(iii) When boats or craft are approaching each other head on, or nearly so, each shall be operated to pass the other on the port (left) side at a distance and at a speed so that the wake of each will not endanger the other.

(iv) When a boat or craft desires to pass another traveling in the same direction, the overtaking boat or craft shall keep clear of the overtaken boat or craft and shall pass at a speed and at a distance so as not to endanger the overtaken boat or craft. The overtaken boat or craft shall maintain its course and speed until the overtaking boat or craft has safely passed.

(v) When two boats are approaching each other at right angles or obliquely so as to involve risk of collision, other than when one vessel is overtaking another, the boat which has the other on her own port (left) shall hold her course and speed; and the boat which has the other on her own starboard (right) side shall keep out of the way of the other by directing her course to starboard so as to cross the stern of the other boat, or stop and reverse, if necessary.

(vi) A crossing situation shall exist when two boats or craft are approaching so that each has the other forward of its beam.

(vii) An overtaking situation shall exist whenever a boat or craft approaches another from abaft the beam of the other boat or craft.

(viii) Any boat or craft propelled by machinery shall keep clear of any boat or craft under sail or being propelled by oars or paddles.

(ix) Slow speed shall be maintained in docking and fishing areas so as not to endanger persons or other craft.

(4) Safety requirements and equipment: (i) All boats or craft shall carry a life preserver, buoyant cushion, or ring buoy approved by the United States Coast Guard and in good and serviceable condition for each person on board. Such devices shall be properly secured and stowed so as to be readily accessible in an emergency, except that, any person, twelve (12) years or younger and any nonswimmer, aboard a boat or craft while such boat or craft is in motion, shall have an approved buoyant device securely fastened to his or her person.

(ii) Every motorboat or other motor-propelled craft, operated between sunset and sunrise shall carry and exhibit the following lights, and during such time, no other lights which may be mistaken for those prescribed, shall be exhibited:

(*a*) *Class A (less than 16 feet in length).* A bright white light aft to show all around the horizon and visible for two (2) miles and a combined lantern in the fore part of the boat and lower than the white light, showing green to starboard (right) and red to port (left), so fixed as to throw the light from right ahead to two (2) points abaft the beam on their respective sides.

(*b*) *Class 1 (16 feet to less than 26 feet in length).* Same as required for Class A boats.

(*c*) *Class 2 (26 feet to less than 40 feet in length).* A bright white light aft showing all around the horizon and visible two (2) miles. A bright white light in the fore part of the boat as near the stem as possible and lower than the white light aft and so fixed as to throw the light ten (10) points on each side of the boat, from right ahead to two (2) points abaft the beam on either side, and visible two (2) miles. On the starboard (right) side, a green light and on the port (left) side a red light each visible one (1) mile and so fixed as to throw the light from right ahead to two (2) points abaft the beam on their respective sides.

(iii) Every motorboat of Class 1 or 2 shall be equipped with an efficient whistle or other sound producing mechanical device.

(iv) Every motorboat of Class 2 shall be provided with an efficient bell.

(v) Every motorboat shall have the carburetor or carburetors of every engine, except outboard motors, using gasoline as fuel, equipped with an efficient flame arrestor of a type approved by the United States Coast Guard.

(vi) Every motorboat, except open boats, using as fuel a liquid of a volatile nature, shall be provided with a natural or a mechanical ventilating system capable of effectively ventilating the bilges of the engine and fuel tank compartments, so as to remove any explosive or inflammable gasses.

(vii) Every motorboat shall be provided with at least the minimum number of hand portable fire extinguishers of the size and type approved by the United States Coast Guard, and which shall be at all times, kept in condition for immediate and effective use and shall be so placed as to be readily accessible. Inboard motorboats and those outboard motorboats having fuel containers in compartments wherein vapors could be pocketed shall carry the following fire extingushers:

(*a*) *Class A.* At least one (1) approved B–1 type extinguisher.

(*b*) *Class 1.* Same as Class A.

(*c*) *Class 2.* At least two (2) approved B–1 type extinguishers, or a fixed fire extinguishing system in machinery spaces.

(5) Accidents: (i) In case of collision, accident, or other casualty involving a motorboat or other craft, the operator

shall, if, and so far as he can without serious danger to his own boat or craft, or persons aboard, render such assistance as may be practicable and necessary to other persons affected by the collision, accident, or casualty, in order to save them from danger caused by the collision, accident or casualty. He shall also give his name, address, and identification of his boat or craft to any person injured and to the owner of any property damaged.

(ii) A report of any collision, accident, fire or other casualty that results in property damage in excess of $50 or any personal injury or death to any person or persons must be made at the nearest Ranger Station within 24 hours.

(6) Prohibited operation: (i) No person shall operate, or knowingly permit any person to operate, any motorboat or craft in a reckless or negligent manner so as to endanger or be likely to endanger, the life, limb or property of any person.

(ii) No person shall operate or knowingly permit any person to operate, any motorboat or craft while under the influence of intoxicants, narcotic drugs, barbituates or marijuana.

(iii) Boats propelled by a propeller (airboats) above the water line of the boat or craft are prohibited on all waters within the park.

(iv) Machinery propelled waterborne craft of every description are prohibited on all waters of the park except lakes which may be reached by roads administratively approved as public roads.

(v) The towing of water skis, surfboards, and similar devices by motorboats or other craft is prohibited on all park waters unless specifically authorized by the superintendent by the posting of signs setting forth the body of water and delineated portion thereof where such activity is permitted.

(vi) No boat more than 32 feet in length shall be placed or operated on park waters, except that this prohibition shall not extend to concessioner-operated sightseeing launches.

(vii) No waterborne craft shall be operated within any area delineated by a line of red buoys.

(viii) No waterborne craft shall be operated in excess of five miles per hour within any area delineated by a line of yellow buoys.

(ix) No motor-propelled craft shall be operated within 500 feet of any designated bathing area. Bathing areas are designated by white buoys and white float lines.

(x) The foregoing restrictions shall not apply to craft engaged in the official business of the Federal Government.

(xi) Swimming from unanchored boats is prohibited.

(xii) No person, other than the authorized concessioner or his representatives, shall moor or beach a waterborne vessel on the shore of a designated harbor area except in an emergency.

[F.R. Doc. 62-5060; Filed, May 24, 1962; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Parts 1005, 1011, 1065, 1066, 1071–1076, 1090, 1094, 1096, 1098, 1101–1107, 1134, 1135, 1137]

HANDLING OF MILK IN CERTAIN MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

In the matter of:

7 CFR Part; Docket No.; and Marketing Area

1005	AO-177-A20	Tri-State.
1011	AO-251-A4	Appalachian.
1065	AO-86 -A14	Nebraska-Western Iowa.
1066	AO-122-A9	Sioux City, Iowa.
1071	AO-227-A13	Neosho Valley.
1072	AO-235-A4	Sioux Falls-Mitchell, S. Dak.
1073	AO-173-A14	Wichita, Kans.
1074	AO-249-A4	Southwest Kansas.
1075	AO-248-A3	Black Hills, S. Dak.
1076	AO-260-A4	Eastern South Dakota.
1090	AO-266-A3	Chattanooga, Tenn.
1094	AO-103-A20	New Orleans, La.
1096	AO-257-A8	Northern Louisiana.
1098	AO-184-A18	Nashville, Tenn.
1101	AO-195-A10	Knoxville, Tenn.
1102	AO-237-A6	Fort Smith, Ark.
1103	AO-252-A7	Central Mississippi.
1104	AO-298-A2	Red River Valley.
1105	AO-297-A2	Mississippi Delta.
1106	AO-210-A14	Oklahoma Metropolitan.
1107	AO-304-A3	Mississippi Gulf Coast.
1134	AO-301-A2	Western Colorado.
1135	AO-300-A4	Colorado Springs-Pueblo.
1137	AO-326-A1	Eastern Colorado.

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the joint public hearing to be held in the Lassen Hotel, 155 North Market Street, Wichita, Kansas, beginning at 10:00 a.m., c.s.t., on June 7, 1962; in the Alamo Plaza Courts, 450 Murfreesboro Road, Nashville, Tennessee, beginning at 10:00 a.m., c.s.t., on June 12, 1962; and in the Monte Leone Hotel, 214 Royal Street, New Orleans, Louisiana, beginning at 10:00 a.m., c.s.t., on June 14, 1962. This hearing is with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in each of the marketing areas hereinafter specified.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposals with respect to the matters set forth below have been made by the following:

Athens Milk Sales, Inc.
Dairymen's Co-operative Sales Association.
Hooking Valley Dairymens Association.
Huntington Interstate Milk Producers' Association.
Marietta Cooperative Milk Producers Association.
Pickaway Dairy Cooperative Association, Inc.
Scioto County Milk Producers Association.
Tri-State Milk Producers Association, Inc.
Nebraska-Western Iowa Non-Stock Cooperative Milk Association.
Sioux City Milk Producers Cooperative Association, Inc.
K.M.O. Milk Producers Association, Inc.
Neosho Valley Cooperative Creamery.
Sioux Valley Cooperative Milk Producers Association, Inc.
Southwest Milk Producers Association.
Black Hills Milk Producers Association.
Eastern South Dakota Federation.
Chattanooga Area Milk Producers Association.
Gulf Milk Association, Inc.
North Louisiana Pure Milk Producers Association, Inc.
Nashville Milk Producers, Inc.
Knoxville Milk Producers Association, Inc.
Central Arkansas Milk Producers Association.
Mississippi Milk Producers Association.
Central Oklahoma Milk Producers Association.
Gold Spot Dairy Association.
Pure Milk Producers Association of Eastern Oklahoma.
Western Colorado Milk Producers Association.
Eastern Colorado Dairymen Association.
Denver Milk Producers, Inc.

Proposal No. 1. That the basic formula price to be used in computing the price for Class I milk under each of the following orders shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the applicable month, adjusted to a 3.5 percent butterfat basis by a butterfat differential computed by multiplying the Chicago 92-score butter price by 0.12. Adjustments of the several Class I price differentials appropriate in relation to the proposed change in the basic formula price will also be considered.

This proposal affects the following marketing areas and order provisions:

Marketing area:	*Provisions affected (section)*
Tri-State	1005.50
Appalachian	1011.50
Nebraska-Western Iowa	1065.50
Sioux City, Iowa	1066.50
Neosho Valley	1071.50
Sioux Falls-Mitchell, S. Dak	1072.50
Wichita, Kans	1073.50
Southwest Kansas	1074.50
Black Hills, S. Dak	1075.50
Eastern South Dakota	1076.50
Chattanooga, Tenn	1090.50
New Orleans, La	1094.50
Northern Louisiana	1096.50
Nashville, Tenn	1098.50
Knoxville, Tenn	1101.50
Fort Smith, Ark	1102.50
Central Mississippi	1103.50
Red River Valley	(1)

[1] Class I price based on that of Order No. 106 for Oklahoma Metropolitan marketing area.

Marketing area—Continued	*Provisions affected (section)*
Mississippi Delta	([2])
Oklahoma Metropolitan	1106.50
Mississippi Gulf Coast	([2])
Western Colorado	1134.50
Colorado Springs-Pueblo	1135.50
Eastern Colorado	1137.50

[2] Class I price based on that of Order No. 103 for Central Mississippi marketing area.

Under this proposal evidence will be received only with respect to change in the basic formula prices used to compute Class I prices. To the extent that prices now stated as basic formula prices or alternative basic formula prices in any of the orders are used to compute prices for other classes of milk, it is anticipated that amendment of such orders on the basis of this proposal will require conforming changes to preserve present pricing provisions for such classes.

Proposal No. 2. That all class and producer prices under the orders for the following marketing areas be stated on a 3.5 percent butterfat basis:

Appalachian.
Neosho Valley.
Wichita, Kans.
Southwest Kansas.
Chattanooga, Tenn.
New Orleans, La.
Northern Louisiana.
Nashville, Tenn.
Knoxville, Tenn.
Fort Smith, Ark.
Central Mississippi.
Mississippi Delta.
Mississippi Gulf Coast.

Proposed by the Milk Marketing Orders Division, Agricultural Stabilization and Conservation Service:

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of the notice of hearing and the orders may be inspected at the office of the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be procured from the Milk Marketing Orders Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington 25, D.C., or from the offices of the market administrators listed below or may be there inspected:

64 State Street, Gallipolis, Ohio.
617½ Shelby Street, Bristol, Tenn.
3801 Harney Street, Omaha 31, Nebr.
1137 Badgerow Building, Sioux City 1, Iowa.
423½ South Phillips Avenue, Sioux Falls, S. Dak.
2700 East Central, Wichita 14, Kans.
616–18 North Second Avenue, Room 228, Dodge City, Kans.
216 Securities Acceptance Building, 628½ Sixth Street, Rapids City, S. Dak.
308 North Walnut Street, Pittsburg, Kans.
5916 Brainerd Road, Chattanooga 11, Tenn.
3709 South Carrollton Avenue, New Orleans 18, La.
106 East Kingshighway, Shreveport, La.
Suite 1313, 1808 West End Building, Nashville 3, Tenn.
205 Flatiron Building, 705 Broadway, NE., Knoxville 17, Tenn.
3518 West Roosevelt Road, Little Rock, Ark.
480 East Woodrow Wilson Drive, 202 University Building, Jackson 6, Miss.
701 West 17th Street, Lawton, Okla.
205 Walthall Street, Greenwood, Miss.
2570 South Harvard Street, Tulsa 14, Okla.
2126 22d Avenue, Gulfport, Miss.
121 East Boulder Street, Colorado Springs, Colo.
2765 South Colorado Boulevard, Denver 22, Colo.

Signed at Washington, D.C., on May 22, 1962.

Robert G. Lewis,
Deputy Administrator, Price and Production, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 62–5088; Filed, May 24, 1962; 8:51 a.m.]

[7 CFR Part 1096]

[Docket No. AO 257–A7]

MILK IN NORTHERN LOUISIANA MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Shreveport, Louisiana, on October 30–31, November 1, 1961, pursuant to notice thereof issued on October 16, 1961 (26 F.R. 9865).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Secretary, United States Department of Agriculture, on April 16, 1962 (27 F.R. 3741; F.R. Doc. 62–3832) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision (27 F.R. 3741; F.R. Doc. 62–3832) are hereby approved and adopted and are set forth in full herein subject to the following modifications:

1. Add a new paragraph after the tenth paragraph under issue No. 2(a), *Milk to be priced.*
2. Add a new sentence at the end of the twelfth paragraph under issue No. 2(a).
3. Add a new paragraph after the fourth paragraph, under the subtitle *Producer-handler* in issue No. 2(a).
4. The eighth paragraph under the subtitle *Producer* in issue No. 2(a) is revised.
5. Add a new paragraph after the second paragraph under issue No. 2(b), *Classification and allocation of milk.*
6. Add a new paragraph after the seventh paragraph under the subtitle *Transfers* in issue No. 2(b).
7. Add a new paragraph after the sixth paragraph under issue No. 2(e) *Administrative provisions.*

The material issues on the record of the hearing relate to:

1. Marketwide pooling for distribution of proceeds among producers;
2. Necessary order revisions with respect to:
   (a) Milk to be priced and pooled;
   (b) Classification and allocation of milk;
   (c) Payments on unpriced milk;
   (d) Distribution of proceeds to producers; and
   (e) Administrative provisions.

Findings and conclusions. The following findings and conclusions on the material issues are based on the evidence presented at the hearing and the record thereof:

1. *Basis of pooling.* Provisions should be made for a marketwide pooling arrangement in lieu of the existing individual-handler pooling. Under the marketwide pool each producer supplying the market will receive a return based on his pro rata share of the Class I sales of the entire market.

The existing individual-handler pooling arrangement has existed since the inception of the order. The Class I sales of each handler have been shared only among producers delivering milk to that handler. Hence, each handler's minimum blend price to his producers has depended on the proportion of his milk sold in each class.

The major cooperative association, representing more than two-thirds of the producers supplying the Northern Louisiana market proposed the change to marketwide pooling. Over an extended period of time this cooperative has assumed the responsibility of supplying handlers their full requirements for fluid milk uses and of handling the market's reserve supply. Under conditions of short supply, the cooperative directed the movement of milk among handlers either by transfer or diversion to the end that all producers received essentially a Class I price. When additional milk was required it was procured by the cooperative association from outside sources and supplied to handlers at the order Class I price.

During the past several years the local milk supply has tended to exceed handlers' requirements in most months. To accommodate the changing market situation the association acquired a plant early in 1960 to provide storage and cooling facilities for the market's balancing supplies. This has substantially enhanced the cooperative's ability to distribute efficiently the market's milk supply among handlers in accordance with their day-to-day requirements. It has also facilitated the assembly of surplus milk for movement to outside outlets, primarily for manufacturing uses. Nevertheless, because of the cooperative's role in the market, the lower returns from the marketing of the reserve or excess supply have been reflected only in the returns to its members, and nonmember producers have received significantly higher returns than member producers.

Because of the variation in returns as between member and nonmember producers there has been considerable dissatisfaction on the part of some cooperative members and a number have withdrawn from the association to secure the higher returns that nonmembers are receiving. This has tended to enhance the disparity between member and nonmember returns since it has reduced the association's opportunity for Class I outlets.

It is concluded that the individual-handler pooling arrangement no longer serves the basic interest of the market. It is apparent that under the existing market situation there is an unequal sharing of the market among producers. A change to marketwide pooling is necessary to assure an equitable distribution of the returns from the sale of milk equally among producers and to maintain orderly marketing of producer milk.

The prices established by the order are those prices which are deemed necessary to maintain an adequate but not excessive supply of milk for the market. If the market is to be adequately supplied throughout the year it is necessary, because of the day-to-day variations in receipts and fluid milk needs and because of the seasonal variation in production, that some milk be disposed of for other than Class I use. The cooperative association is performing an essential marketing service in assuring handlers a full supply of milk to meet their fluid needs and in providing for the orderly disposition of the market's excess or reserve supply. This has tended to maintain an orderly and stable market for all producers. As long as this service could be performed by the cooperative at no basic disadvantage to its producer members, the individual-handler pooling arrangement accommodated the market. However, if orderly marketing is to be maintained, nonmember producers must bear an equitable share of the cost of maintaining the market's reserve supply. This can only be accomplished through marketwide pooling.

Certain handlers as well as a number of producers voiced their opposition to marketwide pooling. It was their position that individual-handler pooling implements the enforcement of higher quality standards on the part of handlers and encourages the tailoring of supply in accordance with the market's fluid milk needs.

It is intended that needed supply adjustments shall be directed through the pricing mechanism. It is not intended that the market supply will be adjusted by means of the type of pooling procedure.

The milk priced under the Federal order is that milk which is acceptable for disposition as Grade A milk in the marketing area and which is marketed in a way that meets prescribed performance requirements. While handlers may demand higher quality standards than those generally applicable in the market, it is not an appropriate function of the Federal order to re-enforce handlers' efforts in this respect.

The change from individual-handler pooling to marketwide pooling requires extensive changes in the order provisions particularly with respect to distinguishing those operations which are to be subject to full regulation, and what milk supplies and hence which dairy farmers, constitute the regular supply for the market to whom the minimum prices specified under the order must be paid. A procedure must be provided for the computation of uniform prices and equitable distribution of monies among all producers. Provision also must be made to assure that unpriced milk will not displace the regular milk supply by virtue of any price advantage. Proponents proposed a complete redrafting of the order to accommodate the change to marketwide pooling.

2. (a) *Milk to be priced.* The minimum class prices under the order are intended to apply only to that milk which is produced in compliance with the Grade A inspection requirements of a duly constituted health authority and which is regularly received at plants primarily engaged in the fluid milk business that process milk for distribution on retail or wholesale routes in the marketing area, or at plants which are regular and substantial suppliers of milk to such processing plants. This milk may be identified by appropriate definition of the terms "plant", "distributing plant", "supply plant", "pool plant", "handler", "producer", "producer-handler", "producer milk", "other source milk", and "route".

Under the terms of the order milk may be disposed of for fluid consumption in the market under a wide variety of circumstances. Since the marketwide pool results in payment to all producers on an average utilization for the market, individual handlers are relieved of any responsibility for maintaining a high Class I utilization in order to support their pay rates to producers. It is possible that some handlers with operations primarily used for manufacturing might attempt to subject themselves to full regulation for the purposes of maintaining a supply of milk for manufacturing uses through monies drawn from the pool. In order for marketwide pooling to achieve its stabilizing influence to the greatest extent, the returns from the sale of milk should be shared by producers who constitute the regular supply of milk for the market. It is necessary, therefore, to establish definite standards of performance which may be used to determine which plants and what milk constitute the regular sources of supply and, therefore, become fully subject to regulation. Milk delivered by dairy farmers to such plants constitute the regular supply for the market. Such plant standards are set forth in the order and apply uniformly to all plants wherever located. Any plant, regardless of location, may be brought under regulation by performing in the manner prescribed. Any plant may be relieved from regulation by no longer operating in a way that brings it within the scope of the order. Thus, whether a plant will be fully or partially regulated, or unregulated, is determined by the decision of the plant operator.

Under the plant definition herein provided all of the operations conducted on the premises of an establishment operated as a single unit for the purposes of receiving milk for assembly and transfer, or for processing or packaging milk and milk products are operations of the plant. A facility or establishment functioning only as a transfer point for transferring milk from one tank truck to another, or as a distribution depot for storage of packaged fluid milk products in transit on routes would not constitute a plant.

To assist in the identification of those plants which are to be subject to full regulation a route definition is provided. A route is defined as any delivery of a fluid milk product from a plant to wholesale and retail outlets other than a delivery to another plant. Disposition by a vendor, from a plant store or through a vending machine is treated as a route disposition of the bottling plant supplying the milk for such disposition.

Performance standards should be such that any plant which has as its major function the supplying of milk to the market would pool its sales and share in the marketwide equalization. On the other hand, plants only casually or incidentally associated with the market should not be subjected to full regulation. If a plant were permitted to share on a pro rata basis the Class I utilization of the entire market without being genuinely associated with the market, then the differential established over manufacturing milk values which is paid for milk utilized in Class I would be subject to dissipation without accomplishing its intended purpose. In addition, full regulation of a plant with only a casual association with the market might place such a plant at a competitive disadvantage in its unregulated but primary market with which it is normally associated.

A distributing plant, other than that of a producer-handler, should be qualified as a pool plant in any month in which Class I milk equal to 50 percent of Grade A milk received directly from dairy farmers (including receipts from a cooperative association acting as the handler on farm bulk tank milk which it causes to be picked up at the farm and delivered to a plant) is disposed of in the form of Class I milk on routes, if the lesser of 10 percent of such receipts from dairy farmers or a daily average of 1,500 pounds is disposed of on routes in the marketing area. A plant which distributes less than 50 percent of its receipts as Class I milk cannot be considered to be primarily in the fluid milk business. Any plant which distributed the lesser of 10 percent of its Grade A receipts from dairy farmers or 1500 pounds on a daily average on routes in the marketing area should not be considered as substantially associated with the market.

Proponent's initial proposal would have precluded the pooling of any plant from which the volume of Class I disposition in the marketing area did not exceed the lesser of 10 percent of its total Grade A receipts or 3,000 pounds on a daily average. At the hearing they revised their proposal to provide that a plant have at least 50 percent Class I utilization and to include the existing conditions for regulation, i.e., the lesser of 4 percent of its Grade A receipts or 1,500 pounds on a daily average disposed of on routes in the marketing area as Class I milk.

There are presently two unregulated plants distributing milk in the marketing area. Neither of these plants has distribution in excess of the existing 1,500 pounds limitation. The operator of one of these plants supported proponent's initial proposal of 10 percent of Grade A receipts or 3,000 pounds on a daily average, suggesting that such standards would permit expansion of his route sales and thus reduce his distribution cost.

It would not be in the interest of regulation to permit unregulated handlers to expand their sales in the marketing area to the detriment of local producers. It is, therefore, desirable that the 1,500-pound limitation be retained. If the handler chooses to expand his marketing area sales beyond the 1,500-pound or 10 percent limitation, whichever is applicable, he should be required to pool his sales along with other regulated handlers.

Federal orders generally provide that a distributing plant meeting the pooling requirements of more than one order shall be regulated under that order covering the area in which the greater volume of Class I sales are made and this is concluded to be an appropriate standard under this order. While it is unlikely that any problem will arise as the result of a plant doing essentially the same volume of business in both this and any other marketing area covered by a Federal order, nevertheless, official notice is taken of the recent amendments to the Texas Federal orders whereby a distributing plant, which would otherwise change regulation from one order to another by virtue of changing distribution, would retain pooling status in its previous normal market until the third consecutive month in which a greater volume of business was done under another order. To eliminate any question as to where a plant would be regulated which might be doing the greater proportion of its business in this market, but which, nevertheless, is fully regulated under another order under such a provision, it is provided that a distributing plant which meets the pooling requirements of both this order and another Federal order and which does a greater proportion of its business in this marketing area, but which nevertheless, is fully regulated under such other order, shall be exempted from regulation under this order, except for filing reports and primarily verification.

Exception was taken to the failure to provide that a distributing plant meeting the pooling requirements of both this order and another Federal order and regulated under this order in the most recent month would retain pooling status under this order until the third consecutive month in which a greater volume of its route business was done in the other market. There was no indication on the record that Northern Louisiana handlers distribute fluid milk products on routes in another Federal order market. The recommended order generally recognizes the principle that a distributing plant should be regulated in that Federal order market of greatest route distribution. To eliminate any possible conflict as to where a plant doing business under two Federal orders should be regulated, this order exempts any plant doing a greater proportion of its business in this marketing area but which, nevertheless, is fully regulated under another order under a provision similar to that recommended by exceptor. This will accommodate the existing market situation and there is no necessity for the provision requested by exceptor at this time.

A supply plant should be pooled under the order in any month in which 50 percent of its Grade A receipts from dairy farmers (including receipts from a cooperative association in its capacity as a handler on bulk farm tank milk) is moved to a distributing plant which utilizes at least 50 percent of its total Grade A receipts as Class I milk on routes and which distributes 10 percent of such receipts or 1,500 pounds on a daily average, whichever is less, on routes in the marketing area. A plant shipping 50 percent or more of its Grade A receipts from dairy farmers to distributing plants substantially associated with the local market has demonstrated its primary association with the market for such month. Any plant meeting this shipping requirement in each of the months of September through January, unless it elects nonpool status, should be permitted to retain pooling status during the following months of February through August, regardless of shipments.

The months of February through August are the months of highest production when it would be expected that the regular direct receipts would most likely exceed fluid milk requirements. In such event, it would be more economical to leave the more distant milk in the country for manufacturing and utilize the nearby milk for Class I use. Performance standards under the order should not force milk to be transported to distributing plants solely for the purpose of maintaining pooling eligibility. Accordingly, supply plants which have demonstrated their association with the market during the months of shortest production should be permitted to retain pooling status during the flush production months. However, there is no reason why such a plant should be required to pool in any month when it does not meet the shipping requirements. To avoid any misunderstanding between the plant operator and market administrator as to the plant's status during the flush production months, it is provided that the operator must notify the administrator in writing prior to the first day of any month of February through August if he does not wish to exercise the option for automatic pooling of his plant for the remainder of the period through August. Once a plant operator has elected nonpool plant status, however, such a plant must ship 50 percent or more of its Grade A receipts from dairy farmers to a distributing plant during the month to again qualify as a pool plant.

As has been previously indicated, the cooperative association representing the majority of the producers on the market operates a balancing plant for distributing milk to handlers in accordance with their day-to-day requirements and for the assembly of the market's reserve supply for movement to manufacturing outlets. Since virtually the entire market has converted to farm bulk tank it is generally unnecessary that milk regularly needed by distributing plants move through the association's plant. Accordingly, it is unlikely that the plant could normally meet the prescribed shipping requirements for supply plants except through uneconomic movement of milk through its plant for the purpose of maintaining pool plant status. While the association has disposed of the market's reserve supply in outside Class I outlets to the extent that such outlets were available, the milk so disposed of, as well as the milk for which no Class I outlet is available and which is moved to manufacturing outlets is supplied by dairy farmers who are regular producers for the local market. Accordingly, it should be accounted for in the same manner as all other producer milk received by pool plants under the order. This may be accomplished by providing specific pooling standards for a nondistributing plant operated by a cooperative association. However, the performance standards should be such that only a plant operated by a cooperative association whose major function is supplying milk to the market would be allowed to share in the marketwide pool. This can best be accomplished by designating as a pool plant any nondistributing plant operated by a cooperative association, 60 percent of whose member producer milk is received during the month at pool distributing plants.

Under usual circumstances the association would desire to pool its balancing plant; nevertheless, provision should be made whereby the plant could acquire nonpool status if the association should so elect. It is apparent that such a decision would be made only under circumstances where the plant had substantial outside market Class I sales. The order should not permit the association to pool its reserve supply unless all of the Class I sales associated with such reserve are also pooled. Accordingly, it is provided that should the association elect nonpool status for its plant in any month, such plant would be designated a nonpool plant for each of the succeeding 11 months in which it did not qualify for pooling under the regular supply plant shipping requirements.

Producer-handler. The definition of a producer-handler should be revised to mean any person who operates a dairy farm and a distributing plant but who, during the month, receives no fluid milk products from other dairy farmers or from sources other than pool plants.

Under the present definition a producer-handler may receive milk from any source except direct from other dairy farmers.

A producer-handler conducts an integrated operation in processing, packaging and distributing milk of his own farm production. Full regulation of such an individual would provide considerable administrative difficulty and is not necessary under the existing market situation. However, without the modification herein recommended any handler with own farm production would be able to avoid regulation by giving up his regular producers and securing his supply, other than his own production, as unpriced milk from unregulated plants.

The exemption from pricing and pooling of handlers with own farm production is intended to be limited to bona fide producer-handlers. It is appropriate, therefore, to provide that producer-handler status shall be conditioned on satisfactory proof that the maintenance, care, and management of the dairy herd and other resources necessary to produce milk, and the processing, packaging and distributing operations are the personal enterprises of and are conducted at the risk of the person involved.

Producers, in their exceptions, requested that provision be made to permit a cooperative association in its capacity as a handler on bulk tank milk to move milk directly from the farm to a producer-handler. This they suggested would accommodate the serving of their producer-handler accounts. Under the recommended order, the cooperative association would be required to receive the milk at its pool plant and then transfer such milk (as Class I) to a producer-handler's plant, if such producer-handler were to retain his status. Exceptor's request, if adopted, could relieve any handler with own farm production of the necessity of pooling such production regardless of his dependence on other producers as a regular supply as long as the cooperative elected to be the handler on the milk moved directly from the farm to such handler's plant. In view of this consideration, the request is denied.

Handler. The "handler" definition should be revised in conformity with the new plant definitions and extended to provide handler status for a cooperative association in its capacity as the operator of its pool balancing plant, with respect to milk diverted to a nonpool plant for its account, and, at its election, with respect to the milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such association.

The individual who receives milk from producers is held responsible under the terms of the order for reporting receipts and utilization of such milk, and for proper payments to producers and to the pool. It is essential, therefore, that the cooperative be a handler with respect to the operation of its balancing plant.

Making the cooperative the handler on milk of producers associated with other pool plants in the market and which is diverted to nonpool plants for the account of the asociation will facilitate the orderly disposal of the market's reserve supply.

Under the current arrangements for marketing the milk of producers using farm bulk tanks, the amount of milk received and the butterfat tests thereof are determined by measurement at the farm and from butterfat samples drawn at the farm. After the milk has been pumped into the tank truck and commingled with the milk of other producers, there is no further opportunity to measure, sample, or reject the milk of an individual producer except as the operator of the pool plant measures, samples or rejects the entire lot of milk. When such operations are conducted at the direction of, and under the supervision of, a cooperative association it is the association who has control over the deliveries of individual producers. Accordingly, the association should be permitted to elect to be the responsible handler for reporting, accounting and paying for the milk. The milk delivered to a pool plant in this manner should be treated as a receipt of producer milk by the cooperative at a pool plant in the same location as the pool plant at which the milk is physically received. Under the terms of the order, as herein recommended, the transaction is treated as an interhandler transfer.

Except for extension of the handler definition to include a cooperative association as indicated above, the definition would have application to the identical persons provided by the present order.

Producer. The producer definition should be revised in conformity with the new plant and handler definitions and to provide more restrictive diversion privileges during the short production months. The term is intended to distinguish those dairy farmers who constitute the regular source of Grade A milk supply for the market to whom the minimum prices specified under the order must be paid.

As has been previously indicated, under individual-handler pooling each handler is governed in the amount of milk which he receives by his needs for Class I milk and the relationship of his blend price to that of other handlers. Under marketwide pooling all producers are returned the same blend price with the result that a handler may add additional milk supplies without affecting his producer pay prices in relation to the prices paid by other handlers. For this reason, it is necessary to provide performance standards to distinguish that milk which has a bona fide association with the fluid market. It is therefore not appropriate to continue the present unlimited diversion provisions in all months of the year.

When producer milk is not needed in the market for Class I use the economic movement of such milk to nonpool plants for manufacturing uses should be facilitated. Allowing unlimited diversion during the months of February through August when supplies are normally greatest will contribute to this end.

Unlimited diversions are neither necessary nor appropriate during other months of the year when milk of producers is most needed to supply the Class I needs of the market. It must be recognized, however, that there are day-to-day variations in both production and sales, particularly since bottling operations are not carried on seven days a week. To accommodate the efficient handling of the regular milk supply, therefore, it is provided that during any month of September through January not more than ten days' production of any producer may be diverted to nonpool plants.

Additional flexibility and more economic handling of the market's reserve supply may be provided through an alternative diversion procedure during the months of limited diversions. It is provided therefore, that 15 percent of a cooperative's member producers' milk may be diverted by the cooperative to nonpool plants during such months. Other handlers may similarly divert 15 percent of their nonmember producer receipts. While the percentage provisions would allow less diversions than the 10-day limitation, it will in some situations, implement more efficient movement of milk, since it will permit regular diversion of certain routes.

Under the percentage diversion limitations member milk may be diverted only for the account of the association. Diversion of nonmember milk would be at the direction of the operator of a pool plant. Thus, there is a clear responsibility for both the cooperative association and proprietary handlers with respect to meeting the applicable percentage limitations. It is incumbent upon a handler receiving cooperative member milk to ascertain, prior to diverting any such milk, the basis on which the cooperative is accounting for milk which it is diverting to nonpool plants during the month. If the cooperative is diverting on a percentage basis, no other handler may account for milk of any of the cooperative's members under any diversion provision. It is conceivable, however, that arrangements for diversion of member milk might be made by a proprietary handler under agreement with the association whereby such diversion would be made for the account of the association.

If the cooperative association is not using the percentage diversion provision, member milk may be diverted by either the proprietary handler or the association. When the percentage limitation is exceeded, however, diversions would automatically be under the 10-day provision.

In the event any dairy farmer's milk is diverted in excess of the limits prescribed, such dairy farmer would qualify as a producer under this definition only with respect to that portion of his milk which is physically received (including milk for which the cooperative association is the handler) at pool plants during the month. Milk diverted in conformity with the diversion privileges is treated under the order as a receipt by the diverting handler at a pool plant at the location of the plant from which diverted.

Other source milk. In conformity with the revisions in the handler definition, it is necessary to revise the other source milk definition to make clear that receipts from a cooperative association in its capacity as a handler on bulk tank milk are not receipts of other source milk. In addition, to implement the treatment of inventories hereinafter prescribed, inventories on hand at the beginning of the month must be excluded from this definition. Under the amended order, other source milk would include all skim milk and butterfat utilized by a handler in his operations except fluid milk products received from pool plants and from a cooperative association as the handler on bulk tank milk, inventories of fluid milk products, and current receipts of producer milk. When other source milk is disposed of in Class I products, partial pricing and regulation is provided under the compensatory payment provisions. Defining other source milk in the manner proposed will insure uniformity of treatment to all handlers under the allocation and pricing provisions of the order.

(b) *Classification and allocation of milk.* To facilitate the drafting of the revised order proponents proposed that a fluid milk product definition be provided. The term is intended to include those products which are generally required to be derived from milk and milk products from approved sources of supply. The products included in the definition are those products which are classified as Class I milk under the existing order.

Proponents proposed no basic change in the classification except with regard to the shrinkage provisions and the classification of inventories. They pointed out that if the cooperative was made the responsible handler for milk which it directs to be moved from the farm to the pool plants of other handlers, provision should be made for a division of shrinkage to assure that the cooperative association is not required to account for its normal shrinkage as Class I. In the matter of classification of inventories, it was their position that a Class I classification would simplify the accounting procedures and assure producers prompt payment for their milk in accordance with its actual ultimate use.

Although no specific exceptions were filed to the present requirements under which skim milk may be dumped under a Class II classification, the notice requirements have been modified to provide greater flexibility and to better accommodate handlers. In lieu of the present required 24 hour notice of dumping, only such notice as the market administrator shall require is provided.

The order presently provides a Class II classification and pricing for actual plant shrinkage not in excess of 2 percent of receipts and no change was proposed in this regard. The problem is an appropriate division of the maximum shrinkage allowance between handlers when interhandler transfers are involved.

There is no question but that under normal circumstances losses connected with processing and packaging exceed those of the receiving operation. Proponents proposed that one-half of one percent shrinkage allowance be provided for a receiving operation. This is generally compatible with experience in other Federal order markets and it is therefore concluded to be a reasonable allowance. The division of shrinkage on the basis of one-half of one percent to the receiving handler and 1.5 percent to the transferee handler assures each handler a reasonable share of the total allowable shrinkage. Where the transferor handler is a cooperative association delivering bulk tank milk and the transferee handler is purchasing such milk on the basis of farm weights and the tests of farm drawn samples, the cooperative experiences no shrinkage. Under such circumstances, the order provides that the entire 2 percent shrinkage allowance goes to the transferee handler.

Where a handler uses both pool milk and other source milk in his plant, provision must be made for a division of plant shrinkage among the various sources of receipts. The existing order provides that other source milk shall be assigned a pro rata share of the total plant shrinkage and no change is proposed in this regard. Contrary to the existing order, however, all shrinkage assigned to other source milk should be classified as Class II. The classification procedure set forth in the order gives adequate protection in the classification of producer milk and it is unnecessary to limit the classification of shrinkage on other source milk as Class II.

No change should be made in the present Class II classification of inventories of fluid milk products on hand at the end of the month. However, provision should be made in the allocation procedure to permit the clearance of inventories each month and to provide assurance that no reclassification charge is made on other Federal order receipts classified and priced as Class I in the originating market but which might be allocated as inventory to Class II under this order and later reclassified.

Under the procedure prescribed ending inventories will continue to be Class II. Opening inventories would be allocated to the lowest available utilization in excess of closing inventory following the allocation of other source milk receipts. A reclassification charge would be levied on any inventory reclassification except other Federal order milk previously classified and priced as Class I milk. This procedure is necessary to deter any handler from obtaining a pricing advantage by manipulation of inventories on a month-to-month basis. At the same time, this procedure generally preserves the principle that producer milk shall have prior claim on Class I utilization. Inventories of fluid milk products on hand at a pool plant at the beginning of the month in which a plant is first regulated should be treated as a receipt of other source milk at such plant during the month.

Handlers proposed in conjunction with the proposed change in pooling procedure that the skim milk equivalent of nonfat dry milk used in fortification of fluid milk products be classified as Class II in lieu of the existing Class I classification. It was their position that accounting for the full skim milk equivalent of fortification in Class I unduly and inappropriately increases handlers' product costs.

Under the existing order, a handler may protect himself in considerable measure from a Class I pricing on fortification by tailoring his producer receipts to his actual fluid milk requirements. Since under individual handler pooling no compensatory charge is levied on other source milk utilized in Class I, handlers pay a Class I price on the skim milk equivalent of fortification only to the extent that producer receipts are available for assignment to such use. Under marketwide pooling a compensatory payment is levied on any unpriced other source milk assigned to Class I. Hence, unless some change is made in the classification of fortified fluid milk products handlers will necessarily pay a Class I price on the full skim milk equivalent of all nonfat milk solids used in fortification.

It is concluded that where fortification of fluid milk products is involved, the extent of classification as Class I should be only the weight of an unfortified product of the same nature and butterfat content. The skim milk equivalent of the added nonfat milk solids in excess of such weight should be classified as Class II.

When nonfat milk solids are added to a fluid milk product for the purposes of fortification such solids must be in the form of nonfat dry milk or condensed skim milk. If such solids are to be derived from producer milk, the skim milk must first be processed into usable form: i.e., nonfat dry milk or condensed skim milk. Such products processed from producer milk have no greater value for fortification purposes than similar products purchased on the open market. Such products are used in fortification to increase the palatability of, and hence, the salability of the finished products. Fortification only slightly increases the volume of the product and under no circumstances can it be concluded that the solids displace producer milk beyond the minor increases in volume which result.

When flavoring and other nonmilk additives are used in processing any milk product, it is intended that the dry weight of such additives shall be deducted in determining the amount of skim milk and butterfat to be accounted for. This is consistent with the procedure employed in the nearby Texas Federal order markets and will implement the accounting for all skim milk and butterfat utilized.

When reconstitution rather than fortification is involved, it is essential that the full skim milk equivalent of the nonfat milk solids used be classified in Class I. Unlike fortification, when nonfat milk solids are used in reconstituting any fluid milk product they displace in Class I use, a volume of producer milk equal to the volume of the finished reconstituted product. Unless handlers are required to account for such solids on a skim milk equivalent basis in Class I there would be a substantial incentive for them to reconstitute whenever possible. This would tend to result in unequal costs as between handlers. Further, if the order permitted handlers to obtain unpriced milk for Class I uses whenever it was advantageous to do so, while producer milk was utilized in Class II, it would not be effective in carrying out the purposes of the Act and the market would be deprived of a dependable milk supply.

Transfers. In conjunction with the change in pooling procedure and to implement the orderly disposition of the market's reserve supply, the transfer provisions relating to transfers to nonpool plants (other than to producer-handlers) should be revised.

Under the present order, transfers of milk, skim milk or cream in bulk to a plant not subject to full regulation under the order are classified as Class I unless Class II is claimed, the transferee handler maintains books and records and allows verification, and the Class I milk in such plant does not exceed receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such plant.

It is possible that nonpool plants which might be available as outlets for this market's reserve milk supply may either be fully regulated under another order or may be totally unregulated. In either situation such plants may be receiving milk from other Federal order plants at which it is classified and priced. Unless this situation is recognized such nonpool plants may not be available to this market because of the possible costs under a mandatory Class I classification, notwithstanding the fact that the milk was utilized in processing Class II products.

Fluid milk products transferred in bulk to any nonpool plant which is a fully regulated plant under another Federal order should be classified in the class in which assigned under such other order. This procedure will insure compatibility of classification as between orders and at the same time provides assurance to producers that their milk is being priced in accordance with its actual use value. It should be recognized, however, that the transferee plant may also be receiving milk from plants regulated under other orders. To assure equity for local producers, when milk from more than one order is involved, it is provided that the classification of the transfers shall be a pro rata share of other Federal order milk classified in each class at the transferee plant under the provisions of the order regulating such plant.

Fluid milk products transferred in bulk to a nonpool distributing plant, not regulated under any Federal order, should be classified as Class I to the extent of such plant's Class I route sales in the marketing area when such nonpool plant has elected to make the regular compensatory payment rather than payment of any amount by which his payments to his regular dairy farmers are less than the classification value of his milk. This procedure protects the integrity of regulation and at the same time minimizes the application of compensatory payment on the milk at such a plant.

Except as previously discussed, skim milk and butterfat disposed of in bulk in the form of any fluid milk product to a nonpool plant, either by transfer or diversion, should be Class I unless specified conditions are met.

Where diversions are involved a mileage limitation, beyond which a mandatory Class I classification would apply, is essential to protect the integrity of regulation. Unless this is done, milk produced for other markets might be associated with the market on the basis of even a single day's delivery for the purpose of establishing status as producer milk and thereafter be reported as a diversion to its normal plant of receipt throughout the months of unlimited diversion. In consideration of the location of available manufacturing facilities there should be no need to divert milk for manufacturing uses in excess of 300 miles. Accordingly, it is provided that milk diverted to a nonpool plant located in excess of 300 miles from the nearer of Minden or Monroe, Louisiana, shall be classified as Class I.

Producers excepted to a 300-mile limitation on transfers of milk as Class II to nonpool plants and would extend such limitation to 350 miles. In fact, there is no mileage limitation on transfers of milk to nonpool plants under a Class II classification. The 300-mile limitation recommended applies only to diverted milk and the two nonpool plants referred to by exceptor as outlets for their reserve supplies are well within the limitation. For these reasons, exceptor's request to extend the mileage limitation is denied.

The transferee handler must maintain adequate books and records of utilization of all skim milk and butterfat in his plant which are made available to the market administrator, if requested, to permit verification of the appropriate classification of any transfer or diversion. In addition, at least an equivalent Class II utilization of all skim milk and butterfat, respectively, must have been available in such plant and the classification of skim milk and butterfat in Class I milk claimed by all handlers transferring or delivering milk to such nonpool plant may not be less than a pro rata share of the available Class I utilization assignable to Federal order receipts at such plant, after the prior assignment to Class I of receipts from Grade A dairy farmers who the market administrator determines constitute the regular source of supply for Grade A milk for such plant.

Allocation. The order class prices apply only to producer milk. Accordingly, since a plant may receive skim milk and butterfat from sources other than producer milk a procedure must be established whereby it may be determined what quantities of milk in each plant shall be assigned to producer milk. The milk from producers who constitute the regular source of supplies for the market should be given priority in the assignment of Class I utilization at pool plants. This is the principle followed in the allocation provisions of the existing order and no basic change is proposed. Since the order, as proposed to be amended, provides for a compensatory payment charge on any unpriced other source milk utilized in Class I, it is necessary that the allocation of other source milk be accomplished in three steps; i.e., other source nonfluid milk, unpriced other source fluid milk and other source fluid milk from Federal order plants.

Much of the supplemental milk for the market has in the past been brought in from other Federal order markets. When such supplemental milk is actually needed and is obtained under conditions which assure that it is paid for at Class I prices under another order, it is appropriate that the need be recognized in the allocation of such milk. Provision is made, therefore, following the assignment of unpriced other source milk to the lowest available use class and prior to the assignment of bulk receipts from other Federal order plants, for the assignment of 5 percent of producer receipts (including receipts from a cooperative association as the handler on bulk tank milk) to any remaining Class II use. This procedure will permit a handler whose regular milk supplies run short to bring in milk from other Federal order markets and have it assigned to Class I. Other changes in the allocation provisions are related to the clearance of inventories each month as has been previously discussed.

(c) *Payments on other source milk.* Milk may be disposed of for Class I disposition in the marketing area by and from plants not subject to full regulation under the order. Such unregulated plants may sell milk in bulk to pool plants that in turn use it in supplying their Class I outlets, or they may have direct Class I route sales in the marketing area, including sales to Government installations.

The role of the classification system and the minimum prices as set forth in the order is to insure that price competition from reserve or excess milk will not break the market price for Class I milk, thereby destroying the incentive necessary to encourage adequate production. Because the minimum pricing and pooling provisions of the order are applicable only to fully regulated plants it is necessary, in order to assure continuing market stability, to remove any advantage unregulated plants may attain with respect to sales in the regulated market. Such plants have an incentive to sell their excess milk at any price which exceeds the value of the milk for manufacturing uses. If unregulated plants were allowed to dispose of their surplus milk for Class I purposes in the regulated market without some compensatory or neutralizing provision in the order, it is clear that the disposition of such milk, because of its price advantage relative to fully regulated milk, would displace the fully regulated milk in Class I uses in the marketing area. The plan of Congress as contemplated under the Agricultural Marketing Agreement Act of 1937, as amended, of returning minimum prices to the producers for the regulated market would be defeated.

In the absence of any competitive or regulatory force which compels all handlers to pay producers for milk used in fluid outlets at a rate commensurate with its value for such use, the position of any handler who pays the Class I price is insecure, if not untenable, whenever cheaper milk is available to the market. The classified pricing program under the order could not be successful in the long run in insuring returns to producers at rates contemplated by the Act if it is possible for some handlers to purchase other source milk for Class I use at less than the Class I price. Any handler who finds himself in a situation where his competitors pay less for fluid milk than he pays will be compelled to resort to the same method, if possible. A price advantage in using unregulated milk is a compelling force in promoting its greater use and as a result it is possible that regular sources of priced milk would eventually be abandoned by handlers, thus creating insecurity for themselves, producers, and consumers alike.

It is concluded that provision must be made to insure against the displacement of producer milk for the purpose of cost advantage. In the case of fully regulated handlers a compensatory payment should be required on any unpriced other source fluid milk allocated to Class I. Such payment should be at the difference between the order Class II and Class I prices applicable at the location of the plant from which such other source milk was initially received from dairy farmers. This procedure will assure equitable treatment among handlers since it recognizes transportation costs, as reflected in the location differential, from the originating plant to the local market. Any other source milk disposed of in this market would be surplus to the needs of its normal market and hence, its alternative use (and value) in its normal market would be for manufacturing purposes. The Class II price established under the order is a fair and economic measure of the value of milk for manufacturing uses in this area and, hence, appropriately represents the actual value of the other source milk in its normal market.

Nonfluid milk products compete on a national market and may be received at the local market from a number of sources and under varied circumstances. It is not administratively feasible to trace such products to their plant of origin. Accordingly, when other source milk on which compensatory payment is required is received in a form other than as fluid milk products, the payment should be on the basis of the difference between the Class II price and the Class I price effective at the location of the pool plant where used.

Provision should be made for those cases in which the supply of producer milk is not adequate to fill Class I milk requirements. In such an event, necessary purchases from outside sources of unpriced milk would not displace producer milk. When the total market receipts of producer milk are less than 110 percent of the total Class I sales during the month, it is possible that some handlers may have to purchase milk from outside nonregulated sources to meet their full Class I requirements. It is likely that when this market is in short supply, other nearby Federal order markets also would be experiencing shortages. Under these circumstances, there would be little opportunity for a handler to procure other source milk at prices below the order Class I price and hence no advantage could be gained by the use of other source milk. Under such circumstances, there is no need for compensatory payments. This procedure was proposed and supported by the proponent cooperative.

Milk is distributed in the marketing area from plants which have insufficient sales in the marketing area to qualify for pooling. To preserve the integrity of regulation, it is necessary to assure that the operators of such plants have no product cost advantage over regulated handlers because of their ability to use unpriced milk. This may be accomplished by permitting any such individual to pay into the pool any amount by which the use value of his milk, computed as though he were a pool handler, exceeds his payments to dairy farmers, or, in the alternative to make a compensatory payment to the pool of the difference between the Class I price and the Class II price on the hundredweight of his market area Class I sales which are in excess of his purchases of Federal order milk classified and priced as Class I. In addition, such operator should be required to pay his fair share of the cost of administering the order. Should he elect to pay his dairy farmers, rather than make a compensatory payment, the market administrator must perform essentially the identical audit that he would perform if the plant were a pool plant. In such case, the handler's obligation to the administrative fund should be computed on the same basis as though he were a pool handler. Should he elect to make a compensatory payment on his market area sales the audit procedure is likely to be less extensive and hence less costly. Under such circumstances a payment of the rate of assessment on only the amount of his marketing area Class I sales will more appropriately reflect such handler's fair share of the cost of administering the order.

There are presently only two handlers distributing milk in the marketing area who would not be fully regulated under this order or who are not presently fully regulated under another Federal order. The larger of these handlers does not procure milk in competition with regulated handlers. The operations of the other handler are such that the advantages that he would enjoy over fully regulated handlers in the procurement of milk supplies are not of sufficient magnitude to defeat the purpose of the marketwide equalization or otherwise preclude maintenance of orderly marketing conditions in this market. Permitting the nonpool handler to choose which payment procedure he wishes to use will permit him flexibility in meeting the competitive situation in his local market without infringing on the integrity of regulation.

(d) *Distribution of returns to producers.* Payments to producers under the marketwide pool will require a producer-settlement fund for making adjustment in payments, as among handlers, to the end that the total sums paid by each handler will equal the value of milk received by him at the prices specified by the order. Handlers whose obligations, computed on the basis of the class prices, exceed the uniform prices will pay the difference to the producer-settlement fund. Handlers whose obligations to producers at the uniform prices exceed the classification value of their milk will receive the difference from the producer-settlement fund.

Provision is made whereby the market administrator, in making payments to any handler from the producer-settlement fund, shall offset such payments by any amounts due such fund from such handler. This is a sound business practice and without the provision, the market administrator might be required to make payments to a handler who owes money to the fund but who is not financially able to make full payment of all of his obligations to the fund.

If at any time the balance in the producer-settlement fund is insufficient to cover payments due to all handlers, provision is made whereby payments to handlers shall be reduced uniformly. The handler in turn may then reduce his payments to producers by an equivalent amount. Under the procedure prescribed, the market administrator would complete payments as soon as the necessary funds became available and handlers in turn would complete payments to producers not later than the next following regular date for payment of producers.

The order presently provides for payment of producers on a semimonthly basis and for payment to a cooperative association in lieu of payment to its individual producer members, when the cooperative is authorized by such producers to collect payment. No change was proposed in this regard.

Provision should be made to require that a handler pay a cooperative association, for all milk purchases from such association in its capacity as a handler at not less than the use value of such milk computed at the specified order prices. A cooperative association may not sell milk to any handler at less than the specified order prices and this provision will implement the enforcement of this requirement. In addition, in order that the cooperative association may pay all of its producer members on the same date, on which nonmember producers are paid, it is necessary that prompt payment be received from handlers for milk which it supplies to such handlers. It is provided therefore, that payment to the cooperative in its capacity as a handler be made on the same dates and on the same basis that payments presently are required to be made to a cooperative association as the authorized collecting agent for milk of its member producers.

(e) *Administrative provisions.* In conformity with the change in pooling, the order should be revised to provide for the computation of a single uniform price applicable to all handlers during the months of August through January and one uniform price for base milk and another uniform price for excess milk during other months.

The present order provides that the regular monthly reports of receipts and utilization be mailed on or before the fifth day after the end of the month or, in the alternative, be delivered in person by the seventh day after the end of the month. It is the intent of this provision that all reports shall be in the hands of the market administrator before the close of business on the seventh. It is provided therefore, that reports shall be delivered to the market administrator on or before the seventh day after the end of the month.

Provision is made for payment of administrative assessment by a cooperative association on that milk for which it is the handler.

While pricing was not an issue at the hearing, there has been a tendency toward increased supplies in relation to Class I needs during the past year and the change in pooling procedure represents a very substantive change in the application of the order. Accordingly, it is essential that opportunity be afforded whereby the price level may be reviewed after a reasonable period of operation under the amended order. It is provided therefore, that the present Class I pricing provisions shall expire 15 months after the amended order becomes effective.

One of the components of the basic formula price on which the Class I price is determined each month is the average Midwest condensery pay price. This price was originally based on reports by 18 plants. However, from time-to-time individual plants have ceased operation. Effective April 1, 1961, the order was amended and the list of plants included in the computation of the condensery pay price was revised to include only the eleven plants then operating. Subsequently, only seven plants (5 in Wisconsin and 2 in Michigan) have been reporting prices. Accordingly, the four plants no longer reporting have been deleted in the redrafting of the order.

The entire order has been redrafted to conform with the changes hereinbefore recommended. This includes elimination of any reference to associated producers, changes of section references and redrafting of certain provisions for clarity and specificity.

In addition to the previously listed changes in order language, certain other nonsubstantive changes in order language have been made for greater clarity.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. Certain hypothetical arguments were made by an exceptor relative to the relationship of the Federal milk order program with the Louisiana State order. The situations presented do not exist in fact. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Northern Louisiana Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Northern Louisiana Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of March 1962, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Northern Louisiana marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on May 21, 1962.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Northern Louisiana Marketing Area

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[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceeding to formulate marketing agreements and marketing orders have been met.

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AUTHORITY: §§ 1096.0 to 1096.95 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1096.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Northern Louisiana marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, except a producer-handler, as his pro rata share of such expense, 5 cents per hundredweight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe, as follows: (i) Each pool handler with respect to (*a*) all receipts of producer milk including such handler's own production, and (*b*) receipts of other source milk which are allocated to Class I milk pursuant to § 1096.46(a)(2) and (c), and the corresponding steps of § 1096.46(b); (ii) Each cooperative association in its capacity as a handler on producer milk diverted to a nonpool plant for the account of such association or received by such association pursuant to § 1096.8(d); and (iii) Each handler operating a nonpool distributing plant to the extent provided in § 1096.62.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Northern Louisiana marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Assistant Secretary, United States Department of Agriculture, April 16, 1962, and published in the FEDERAL REGISTER on April 19, 1962 (27 F.R. 3741; F.R. Doc. 62-3832) shall be and are the terms and provisions of this order, and are set forth in full herein subject to the following revisions: Changes are made in §§ 1096.7 introductory text, 1096.7(b), 1096.8(d), 1096.9, 1096.13 (a) and (b), 1096.15, 1096.18, 1096.27(1)(2), 1096.30(a)(2), 1096.31 introductory text, 1096.31 (a) and (c), 1096.41(b)(2), 1096.44 (a) and (f)(3), 1096.46(a)(7), 1096.53, 1096.65, 1096.70 (d), (e), and (f) by redesignating as (e), (f), and (g), and adding new (d), 1096.73(b)(2), 1096.80 (b) and (f), 1096.82, and 1096.83.

DEFINITIONS

§ 1096.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1096.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or such other officer or employee of the United States as is authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 1096.3 Department.

"Department" means the United States Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified in this part.

§ 1096.4 Person.

"Person" means any individual, partnership, corporation, association or any other business unit.

§ 1096.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

§ 1096.6 Northern Louisiana marketing area.

"Northern Louisiana marketing area" hereinafter called the "marketing area", means all territory within the boundaries of the Parishes of Boissier, Caddo, Claiborne, De Soto, Lincoln, Morehouse, Ouachita, Red River, Union and Webster, all in the State of Louisiana.

§ 1096.7 Producer.

"Producer" means any person, except a producer-handler or any person with respect to milk produced by him which is subject to the pricing and payment provisions of another order issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received at a pool plant or by a cooperative association pursuant to § 1096.8(d), or is diverted to a nonpool plant other than the plant of a producer-handler during any month(s) of February through August or in accordance with the provisions of paragraphs (a), (b), or (c) of this section during any month of September through January:

(a) Not more than 10 days' production during the month unless, (1) In the case of a cooperative association, all of the diversions of milk of member producers by the cooperative association during the month fall within the limits prescribed in paragraph (b) of this section, or (2) in the case of a pool handler (other than a cooperative association) diverting milk of nonmember producers, all of such diversions from such plant fall within the limits prescribed in paragraph (c) of this section.

(b) The diversion is the milk of a member of a cooperative association diverted for the account of such association and the amount of member milk so diverted does not exceed 15 percent of the volume of milk from all producer members of such cooperative association received at pool plants during such month.

(c) The diversion is the milk of a producer not a member of a cooperative association, diverted by a handler in his capacity as the operator of a pool plant from which the quantity of nonmember milk so diverted does not exceed 15 percent of the total nonmember producer milk delivered to such handler during the month.

§ 1096.8 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person in his capacity as the operator of a nonpool distributing or supply plant;

(c) A cooperative association with respect to the milk of any member producer which it causes to be diverted to a nonpool plant for the account of such cooperative association; and

(d) A cooperative association with respect to the milk of any member producer which it causes to be delivered to a pool plant in a tank truck owned and operated by or under contract to such cooperative association for the account of such cooperative association, if the cooperative association, prior to delivery, furnishes written notice to the market administrator and to the handler to whose plant the milk is delivered that it will be the handler for such milk. The milk so delivered shall be considered to have been received by such cooperative association at a pool plant at the location of the pool plant to which it is delivered.

§ 1096.9 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant and whose only source of supply for Class I milk is his own farm production and transfers from pool plants: *Provided,* That such person furnishes satisfactory proof to the market administrator that the maintenance, care and management of all dairy animals and other resources necessary to produce the entire amount of Class I milk handled (excluding transfers from pool plants) and the operation of the plant are each the personal enterprises of and at the personal risk of such person.

§ 1096.10 Plant.

"Plant" means the land, buildings together with their surroundings, facilities and equipment whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products are received and/or processed or packaged: *Provided,* That a separate establishment used only for the purpose of transferring bulk milk from one tank truck to another tank truck, or only as a distributing depot for fluid milk products in transit on routes shall not be a plant under this definition.

§ 1096.11 Distributing plant.

"Distributing plant" means a plant from which Grade A fluid milk products are disposed of during the month on a route(s) in the marketing area.

§ 1096.12 Supply plant.

"Supply plant" means a plant from which fluid milk products eligible for distribution in the marketing area under a Grade A label are moved to a distributing plant during the month.

§ 1096.13 Pool plant.

"Pool plant" means:

(a) A distributing plant other than the plant of a producer-handler from which a volume of Class I milk not less than 50 percent of the Grade A milk received at such plant from dairy farmers and a cooperative association in its capacity as a handler pursuant to § 1096.8(d) is disposed of during the month on routes unless the volume so disposed of in the marketing area is less than 10 percent of such receipts or less than 1500 pounds on a daily average;

(b) A supply plant from which a volume of fluid milk products not less than 50 percent of its Grade A receipts from dairy farmers and from a cooperative association in its capacity as a handler pursuant to § 1096.8(d) is transferred during the month to a distributing plant(s) from which a volume of Class I milk not less than 50 percent of its receipts of Grade A milk from dairy farmers, cooperative associations, and from other plants is disposed of on routes during the month and the volume so disposed of in the marketing area is at least 10 percent of such receipts or a daily average of 1,500 pounds whichever is less: *Provided,* That any plant which was a pool plant pursuant to this paragraph in each of the months of September through January shall be a pool plant in each of the following months of February through August in which it does not meet the shipping requirements, unless written request is filed with the market administrator prior to the beginning of any such month for nonpool status for the remaining months through August; and

(c) A nondistributing plant, which is operated by a cooperative association and which did not meet the shipping requirements of paragraph (b) of this section, shall be a pool plant in any month in which the volume of milk received at pool distributing plants directly from member producers or the cooperative association in its capacity as a handler pursuant to § 1096.8(d) is not less than 60 percent of the total pounds of member producer milk pooled during the month, except that on written request for nonpool status for any month, made to the market administrator prior to the beginning of such month, the plant shall be a nonpool plant for the month and for each of the succeeding 11 months in which it does not qualify as a pool plant pursuant to paragraph (b) of this section.

§ 1096.14 Route.

"Route" means any delivery of a fluid milk product(s) from a plant to wholesale or retail outlets (including any disposition by a vendor, from a plant store, or through a vending machine) other than a delivery to another plant.

§ 1096.15 Fluid milk product.

"Fluid milk product" means all the skim milk (including concentrated and reconstituted skim milk) and butterfat in the form of milk, skim milk, buttermilk, flavored milk and milk drinks, cream, cultured sour cream and any mixture of cream and milk or skim milk (except eggnog, aerated cream products, ice cream, ice cream mix, ice milk, ice milk mix, frozen desserts, frozen cream, evaporated milk, condensed milk and sterilized milk products packaged in hermetically sealed containers): *Provided,* That when any such product is fortified with nonfat milk solids the amount of skim milk to be included within this definition shall be only that amount equal to the weight of skim milk in an equal volume of an unfortified product of the same nature and butterfat content.

§ 1096.16 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in (a) milk received at a pool plant directly from producers, (b) milk from producers diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 1096.7, or (c) milk received by a cooperative association pursuant to § 1096.8(d).

§ 1096.17 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of fluid milk products, except: (1) Such products which are received from other pool plants, (2) producer milk, (3) milk received from a cooperative association for which it is the handler pursuant to § 1096.8(d), and (4) inventory of fluid milk products at the beginning of the month; and

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month or for which other utilization or disposition is not established.

§ 1096.18 Base milk.

"Base milk" means milk received from a producer at a pool plant(s) (or diverted pursuant to § 1096.7) during any of the months of February through July which is not in excess of such producer's daily base computed pursuant to § 1096.65, multiplied by the number of days' production delivered by such producer during the month.

§ 1096.19 Excess milk.

"Excess milk" means milk received at a pool plant(s) (or diverted pursuant to § 1096.7) from a producer during any of the months of February through July, which is in excess of base milk received from such producer during such month, including milk received (or diverted pursuant to § 1096.7) from any producer for whom no base can be computed pursuant to § 1096.65.

§ 1096.20 Chicago butter price.

"Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

Market Administrator

§ 1096.25 Designation.

The agency for the administration of this part shall be a market administrator, appointed by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by, the Secretary.

§ 1096.26 Powers.

The market administrator shall have the following powers with respect to this part:

(a) Administer its terms and provisions;

(b) Receive, investigate, and report to the Secretary complaints of violations;

(c) Make such rules and regulations as are necessary to effectuate its terms and provisions; and

(d) Recommend amendments to the Secretary.

§ 1096.27 Duties.

The market administrator shall perform all the duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon duty and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of this part;

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay from the funds received pursuant to § 1096.86, the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1096.85, that are necessarily incurred by him in the maintenance and functioning of his office, and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary, and furnish such information and reports as the Secretary may request;

(g) Verify all reports and payments of each handler by audit or such other investigation, as may be necessary, of such handler's records and facilities and of the records and facilities of any other person upon whose utilization the classification of skim milk and butterfat depends;

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts has not made reports or payments required by this part;

(i) Prepare and disseminate to producers, handlers and the public, such statistics and information as do not reveal confidential information and which he deems necessary to the proper functioning of this part;

(j) On or before the date specified herein, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the following;

(1) The 5th day of each month, the Class I milk price and the Class I butterfat differential, both for the current month; and the Class II milk price and the Class II butterfat differential, both for the preceding month;

(2) The 10th day of each month, the uniform price(s) computed pursuant to § 1096.72 or § 1096.73 and the producer butterfat differential, all for the preceding month;

(k) On or before the 11th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class; and

(l) On or before the 11th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 1096.30, at his last known address, a statement showing any of the applicable following values:

(1) The amount and value of his producer milk in each class and the totals thereof;

(2) For the months of February through July the amounts of his base and excess milk, respectively; and

(3) The amounts to be paid by such handler pursuant to §§ 1096.62, 1096.82, 1096.84, 1096.85 and 1096.86; and the amount due such handler pursuant to §§ 1096.83 and 1096.84.

REPORTS, RECORDS AND FACILITIES

§ 1096.30 Reports of receipts and utilization.

(a) On or before the 7th day after the end of each month each handler, except a producer-handler, for each of his pool plants and each cooperative association which is a handler pursuant to § 1096.8 (c) or (d) shall deliver to the market administrator a report in the detail and on forms prescribed by the market administrator showing the following:

(1) The quantities of skim milk and butterfat contained in:

(i) Receipts of milk from producers, including such handler's own production and the aggregate quantities of base and excess milk;

(ii) Receipts of fluid milk products from other pool plants and from cooperative associations which are handlers pursuant to § 1096.8(d);

(iii) Receipts of other source milk;

(iv) Inventories of fluid milk products on hand at the beginning and end of the month;

(2) Utilization of all skim milk and butterfat required to be reported pursuant to this section including a statement of the disposition of fluid milk products on routes outside the marketing area;

(3) Such other information with respect to the receipts and utilization of milk and milk products as the market administrator may require;

(b) Each handler operating a nonpool distributing plant unless otherwise directed by the market administrator shall report for such plant at the same time and in the same manner prescribed for a pool handler in paragraph (a) of this section; and

(c) Except as provided in paragraph (b) of this section each handler operating a nonpool plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1096.31 Payroll reports.

On or before the 20th day of each month each handler (other than a producer-handler) who is the operator of a pool plant or a nonpool distributing plant electing payment pursuant to § 1096.62(b), for each of his plants, and each cooperative association, with respect to milk for which it is the handler pursuant to § 1096.8 (c) or (d), shall submit to the market administrator his producer payroll for deliveries of milk for the preceding month which shall show:

(a) The name and, if not previously reported, address of each producer (dairy farmers in the case of a nonpool distributing plant pursuant to § 1096.62(b));

(b) The total pounds and the average butterfat test of milk received from such producer;

(c) The number of days, for which milk was received from such producer; and, for the months of February through July such producer's deliveries of base milk and excess milk;

(d) The rate and net amount of payment to each producer; and

(e) The nature and amount of any deductions or charges involved in such payments.

§ 1096.32 Other reports.

Each handler, who causes milk to be diverted for his account directly from a producer's farm to a nonpool plant, shall prior to such diversion report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of such diversion, and the name of the plant to which such milk is to be diverted.

§ 1096.33 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations together with such facilities as are necessary for the market administrator to verify or establish the correct data which are required to be reported pursuant to this part and the payments required to be made pursuant to this part.

§ 1096.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act, or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1096.40 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported for the month pursuant to § 1096.30 shall be classified by the market administrator pursuant to the provisions of §§ 1096.41 to 1096.46.

§ 1096.41 Classes of utilization.

Subject to the conditions set forth in §§ 1096.42 and 1096.46, the classes of utilization shall be as follows:

(a) *Class I milk*. Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in paragraph (b) (2) and (4) of this section; and (2) not specifically accounted for as Class II milk.

(b) *Class II milk*. Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those designated as Class I milk pursuant to paragraph (a)(1) of this section;

(2) Disposed of and used for livestock feed or skim milk dumped during April, May and June: *Provided*, That in the case of skim milk dumped, the handler shall give the market administrator such advance notice of intent to dump as the market administrator may require;

(3) Contained in inventory of fluid milk products on hand at the end of the month;

(4) Disposed of in the form of fluid milk products to commercial bakeries or food product manufacturing plants (other than nonpool plants) which do not dispose of milk for fluid consumption;

(5) Contained in actual shrinkage of skim milk and butterfat, respectively, not to exceed the amounts calculated for each pool plant and for each cooperative association in its capacity as a handler pursuant to § 1096.8(d) as follows:

(i) Two percent of receipts directly from producers, excluding milk diverted pursuant to § 1096.7; plus

(ii) 1.5 percent of bulk receipts of milk from other plants and cooperative associations in their capacity as handlers pursuant to § 1096.8(d) except that where the handler is purchasing milk from a cooperative association in its capacity as a handler pursuant to § 1096.8(d) and files with the market administrator, prior to the first day of the month, notice that he is purchasing such milk on the basis of the butterfat tests of farm drawn samples and weights determined at the farm, the applicable percentage on such milk shall be 2.0 percent; less

(iii) 1.5 percent of bulk transfers of milk to other plants (in the case of a cooperative association selling milk to a handler on the basis of farm weights and tests, as provided in subdivision (ii) of this subparagraph, the applicable percentage shall be 2.0); plus

(iv) Shrinkage on other source milk determined pursuant to § 1096.42;

(6) In frozen cream; and

(7) Skim milk contained in any fortified fluid milk product in excess of the pounds of skim milk in such product classified as Class I milk pursuant to paragraph (a) of this section by virtue of the proviso of § 1096.15.

§ 1096.42 Shrinkage on other source milk.

The market administrator shall determine shrinkage on other source milk for each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for such plant; and

(b) Assign a pro rata share of such shrinkage to skim milk and butterfat, respectively, in other source milk on the basis of the percentage that such skim milk and butterfat represents of total receipts of skim milk and butterfat, respectively, to which shrinkage may be assigned to Class II pursuant to § 1096.41 (b)(5).

§ 1096.43 Responsibility of handlers and reclassification of milk.

(a) In establishing the classification of skim milk and butterfat as required by this part, the burden rests upon the handler who first receives such skim milk or butterfat to establish to the satisfaction of the market administrator that such skim milk or butterfat should not be classified as Class I.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1096.44 Transfers.

Skim milk or butterfat disposed of during the month either by transfer or diversion shall be classified:

(a) As Class I milk if transferred in the form of a fluid milk product to a pool plant unless utilization as Class II milk is claimed by both handlers (or by the handler if such transfer is between two pool plants of the same handler) in their reports submitted for the month pursuant to § 1096.30(a) and an equivalent amount of Class II utilization is available in the transferee plant following step (8) in the allocation procedure prescribed in § 1096.46: *Provided*, That if either or both handlers have receipts of other source milk during the month the skim milk or butterfat so transferred shall be classified so as to allocate the greatest possible Class I utilization to the producer milk at both plants;

(b) As Class I milk if transferred from a pool plant to the plant of a producer-handler in the form of a fluid milk product;

(c) Except as provided in paragraph (e) of this section in the class in which assigned under the other order if transferred or diverted in bulk in the form of any fluid milk product to a nonpool plant that is a pool plant (a fully regulated plant) under another order issued pursuant to the Act: *Provided*, That if such nonpool plant received bulk fluid milk products from two or more nonpool plants regulated by an order(s) other than that under which it is regulated, the amount classified in each class shall be a pro rata share of such receipts allocated to that class;

(d) Except as provided in paragraphs (b), (c), and (e) of this section, as Class I milk if transferred or diverted in bulk to a nonpool distributing plant in the form of any fluid milk product, to the extent of such plant's disposition of skim milk and butterfat, respectively, as Class I milk in the marketing area, if the operator of such nonpool plant elects option (a) in accounting for his obligation to the pool pursuant to § 1096.62;

(e) As Class I milk if diverted to a nonpool plant located more than 300 miles from either the City Hall in Minden or Monroe, Louisiana, such mileage to be the shortest hard surfaced highway distance as determined by the market administrator; and

(f) Except as provided in paragraphs (b) through (e) of this section, as Class I milk if transferred or diverted in the form of a fluid milk product in bulk to a nonpool plant, unless the following conditions are met:

(1) The transferring or diverting handler claims classification in Class II in his report submitted for the month pursuant to § 1096.30(a);

(2) The operator of such nonpool plant maintains adequate books and records showing the receipts and utilization of all skim milk and butterfat at such plant, which are made available if requested by the market administrator for the purpose of verification; and

(3) An amount of skim milk and butterfat, respectively, of not less than that so claimed by the handler was utilized in Class II and the classification claimed by the handler results in an amount of skim milk and butterfat in Class I milk claimed by all pool handlers transferring or diverting milk to such non-pool plant of not less than the amount of assignable Class I milk remaining after the following computations:

(i) From the total skim milk and butterfat, respectively, in fluid milk products disposed of from such nonpool plants and classified as Class I milk (pursuant to the classification provisions of this order applied to such nonpool plant) subtract the skim milk and butterfat received at such plant directly from dairy farmers who are approved by a duly constituted health authority to supply Grade A milk and who the market administrator determines constitute the regular source of supply for such nonpool plant, and

(ii) From the remaining amount of Class I milk, subtract the skim milk and butterfat, respectively, received from plants at which such milk was classified and priced as Class I milk pursuant to another order issued pursuant to the Act: *Provided*, That the amount subtracted pursuant to this subdivision shall be limited to such plants' pro rata share of such remainder based on the total receipts of skim milk and butterfat, respectively, at such nonpool plant which are fully subject to the pricing provisions of an order issued pursuant to the Act.

§ 1096.45 Computation of the skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization of each handler submitted pursuant to this part and shall compute the total pounds of skim milk and butterfat, respectively, in each class at each pool plant of such handler: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids content of such product together with all of the water originally associated with such solids.

§ 1096.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1096.45, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned pursuant to § 1096.41(b)(5) (i) through (iii):

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk received as other source milk other than in the form of fluid milk products;

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of fluid milk products from plants which are not fully subject to the classification and pricing provisions of another order issued pursuant to the Act;

(4) Subtract from the pounds of skim milk in Class II milk the lesser of such remainder, or the product obtained by multiplying the pounds of skim milk in producer milk and receipts from a cooperative association pursuant to § 1096.8(d) by 0.05;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk received from plants fully subject to the classification and pricing provisions of another order issued pursuant to the Act;

(6) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (4) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in Class II milk in excess of the pounds of skim milk contained in inventory of fluid milk products at the end of the month, the pounds of skim milk in inventory of such products at the beginning of the month: *Provided*, That if the pounds of skim milk in such beginning inventory are greater than the pounds of skim milk remaining in Class II in excess of closing inventory, the difference shall be subtracted from the remaining pounds of skim milk in Class I;

(8) Add to the remaining pounds of skim milk in Class II the pounds subtracted pursuant to subparagraph (1) of this paragraph; and

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from pool plants of other handlers and from cooperative associations which are handlers pursuant to § 1096.8(d) in the form of any fluid milk product according to the classification as determined pursuant to § 1096.44(a); and

(10) If the remaining pounds of skim milk in all classes exceeds the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage".

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Add the pounds of skim milk and butterfat in producer milk and determine the weighted average butterfat content of Class I and Class II milk allocated to such milk.

MINIMUM PRICES

§ 1096.50 Basic formula price.

The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section, rounded to the nearest one-tenth cent.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department divided by 3.5 and multiplied by 4.0.

Present Operator and Location

Borden Company, New London, Wisconsin.
Carnation Company, Richland Center, Wisconsin.
Pet Milk Company, Coopersville, Michigan.
Pet Milk Company, Wayland, Michigan.
Pet Milk Company, Belleville, Wisconsin.
White House Milk Company, Manitowoc, Wisconsin.
White House Milk Company, West Bend, Wisconsin.

(b) The price per hundredweight computed by adding together the plus values of subparagraphs (1) and (2) of this paragraph:

(1) From the Chicago butter price, subtract 3 cents, add 20 percent thereof, and multiply by 4.0;

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents and multiply by 8.16.

§ 1096.51 Class prices.

Subject to the provisions of §§ 1096.52 and 1096.53, the minimum prices per hundredweight to be paid by each handler for milk received from producers during the month shall be as follows:

(a) *Class I milk price.* For the first 15 months in which the amended order is effective, the minimum Class I milk price shall be the basic formula price for the preceding month plus $2.27.

(b) *Class II price.* The minimum Class II milk price shall be the price computed pursuant to § 1096.50(b), minus 5 cents per hundredweight for the months of March, April, May and June, and the price computed pursuant to § 1096.50(b) for all other months, rounded in each case to the nearest one-tenth cent.

§ 1096.52 Butterfat differentials to handlers.

For milk containing more or less than 4.0 percent butterfat, the class prices calculated pursuant to § 1096.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.120; and

(b) *Class II price.* Multiply the Chicago butter price for the current month by 0.110.

§ 1096.53 Location adjustments to handlers.

For milk received from producers at a pool plant located more than 50 but not more than 60 miles by the shortest hard surfaced highway distance, as determined by the market administrator, from either the City Hall in Minden or Monroe, Louisiana, whichever is closer and which is classified as Class I, the prices determined pursuant to § 1096.51(a) shall be reduced 12 cents and by an additional one cent for each 10 miles or fraction thereof that such distance exceeds 60 miles: *Provided*, That for the purpose of calculating such location differential, fluid milk products which are transferred between pool plants shall be assigned to any remainder of Class II milk in the transferee plant after making the calculations prescribed in § 1096.46(a)(8) and the corresponding step in § 1096.46(b) for such plant, such assignment to the transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 1096.54 Use of equivalent price.

If for any reason a price quotation required by this part for computing class prices, or for any other purpose, is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to such required price.

Application of Provisions

§ 1096.60 Producer-handler.

Sections 1096.40 to 1096.46, 1096.50 to 1096.54, 1096.65 to 1096.67, 1096.70 to 1096.75, and 1096.80 to 1096.86 inclusive, shall not apply to a producer-handler.

§ 1096.61 Plants subject to other Federal orders.

The provisions of this part shall not apply to a plant specified in paragraph (a) or (b) of this section except that the operator thereof, with respect to the total receipts and utilization of skim milk and butterfat, shall make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator:

(a) A distributing plant meeting the requirements of § 1096.13(a) which also meets the pooling requirements of another Federal order and from which, the Secretary determines a greater quantity of Class I milk is disposed of during the month on routes in such other Federal order marketing area than was disposed of on routes in this marketing area, and which was fully subject to the classification and pooling provisions of such other order.

(b) A distributing plant meeting the requirements of § 1096.13(a) which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which the Secretary determines a greater quantity of Class I milk is disposed of during the month on routes in this marketing area than is disposed of on routes in such other marketing area but which plant is nevertheless fully regulated under such other Federal order.

§ 1096.62 Handlers operating nonpool distributing plants.

Each handler, other than a producer-handler or a handler with respect to the operation of a plant exempt pursuant to § 1096.61, who during the month operates a nonpool distributing plant shall pay to the market administrator the amounts computed pursuant to paragraph (b) of this section unless the handler elects at the time reports are due pursuant to § 1096.30, to pay the amounts computed pursuant to paragraph (a) of this section.

(a) On or before the 12th day after the end of the month:

(1) For the producer-settlement fund, an amount determined by multiplying the total hundredweight of skim milk and butterfat disposed of as Class I milk on routes in the marketing area less the hundredweight of skim milk and butterfat, respectively, transferred or diverted to such plant which is classified and priced as Class I pursuant to an order issued pursuant to the Act, by the rate determined pursuant to § 1096.63(a) for the location of such plant: *Provided*, That the same priced milk shall not be used to offset Class I sales in both this marketing area and in the marketing area of any other order(s) issued pursuant to the Act; and

(2) On or before the 15th day after the end of the month, as his pro rata share of the expense of administration, the rate specified in § 1096.86 with respect to Class I milk disposed of on routes in the marketing area; and

(b) On or before the 25th day after the end of the month:

(1) For the producer-settlement fund, any plus amount remaining after deducting from the obligation that would have been computed pursuant to § 1096.70 for such nonpool plant and any supply plant(s) (meeting the requirement equivalent to § 1096.13(b)) which serves as a source of milk for such nonpool plant if such plants were pool plant(s):

(i) The gross payments made on or before the 20th day after the end of the month for milk received at such plant(s) during the month from Grade A dairy farmers; and

(ii) Any obligations incurred in accordance with provisions similar to those contained in this section applicable to such plant(s) as a partially regulated plant(s) under another order issued pursuant to the Act; and

(2) On or before the 25th day after the end of the month as his pro rata share of the expense of administration, an amount equal to that which would have been computed pursuant to § 1096.86 had such plant(s) been a pool plant(s): *Provided*, That such amount shall be reduced by any amounts paid as an administrative assessment determined on the basis of the Class I milk disposed of on routes in other marketing areas, pursuant to the provisions of another order issued pursuant to the Act.

§ 1096.63 Rate of payment on unpriced milk.

The following rates of payment shall be applicable on unpriced other source milk received at a pool plant or at a nonpool distributing plant subject to the provisions of § 1096.62 and allocated to Class I:

(a) On other source milk received in a form other than a fluid milk product(s), the difference between the applicable Class II price and the applicable Class I price at the location of such plant.

(b) On other source milk received in the form of a fluid milk product(s), the difference between the applicable Class II price and the applicable Class I price at the location of the nearest plant(s) supplying an equivalent volume of such other source milk.

Determination of Base

§ 1096.65 Computation of daily base for each producer.

Subject to the rules set forth in § 1096.66, the average daily base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer by all pool handlers during the preceding months of September through December by the number of days' production of such producer delivered during such period, but by not less than 90:

§ 1096.66 Base rules.

The following rules shall apply in connection with the establishment of bases:

(a) A base shall be assigned to each producer for whose account milk was received by a handler during the September–December period.

(b) An entire base shall be transferred by the market administrator to another person upon receipt of an application form approved by the market administrator and signed by the base holder(s), or his heirs, and by the person to whom such base is transferred subject to the conditions of paragraph (c) of this section.

(c) If a base is transferred to a producer already holding a base, a new base shall be computed for the transferee by dividing the total volume of milk delivered to handlers by both producers during the September–December period by the total number of days' production delivered by both producers during such period, but not less than 90: *Provided*, That for the purpose of this paragraph the same days' production of both the transferor and transferee delivered to handlers shall be considered as the delivery of one day of production.

§ 1096.67 Announcement of established bases.

On or before January 25 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer pursuant to § 1096.65.

Determination of Prices to Producers

§ 1096.70 Computation of the obligation of each pool handler.

For each month the market administrator shall compute the obligation of each pool handler by making the computations provided in paragraphs (a) through (g) of this section for each of his pool plants, and adding together the resulting totals: *Provided*, That in any month in which the total receipts of producer milk are less than 110 percent of the total Class I utilization at all pool plants, the computation pursuant to paragraphs (b) and (c) of this section shall not be applicable:

(a) Multiply the pounds of producer milk in each class by the applicable class price and add together the resulting amounts;

(b) Add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.46(a)(2) and the corresponding step of § 1096.46(b) by the rate of payment pursuant to § 1096.63(a);

(c) Add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.46(a)(3) and the corresponding step of § 1096.46(b) by the rate of payment pursuant to § 1096.63 (b);

(d) Add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.46(a)(5) and the corresponding step of § 1096.46(b), and not priced as Class I under another order, by the rate of payment pursuant to § 1096.63(b);

(e) Add an amount obtained by multiplying the difference between the applicable Class II price for the preceding month and the applicable Class I price for the current month by the lesser of:

(1) The skim milk and butterfat subtracted from Class I pursuant to § 1096.46 (a)(7) and the corresponding step of (b); or

(2) The skim milk and butterfat remaining in Class II after the computation pursuant to § 1096.46(a)(7) for the preceding month;

(f) Add an amount obtained by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month applicable at the nearest plant location from which an equivalent amount of skim milk and butterfat, respectively, in the form of fluid milk products was received in the preceding month and classified as Class II by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.46(a)(7) and the corresponding step in (b) which is in excess of the sum of:

(1) The skim milk and butterfat for which adjustment was made pursuant to paragraph (d) of this section; and

(2) The skim milk and butterfat subtracted from Class II pursuant to § 1096.46(a)(5) and the corresponding step in (b) for the previous month and which was classified and priced as Class I under another Federal order;

(g) Add an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 1096.46 (a)(10) and the corresponding step of (b) by the applicable class price.

§ 1096.71 Computation of aggregate value used to determine uniform prices.

For each month, the market administrator shall compute an aggregate value from which to determine the uniform price(s) per hundredweight for producer milk of 4.0 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1096.70 for all pool handlers who made reports prescribed in § 1096.30 for such month and who have made payments for the previous month pursuant to § 1096.80 and § 1096.82;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk included in paragraph (a) of this section is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers determined pursuant to § 1096.74 and multiplying the result by the total hundredweight of such producer milk;

(c) Add an amount equal to the sum of the deductions to be made from producer payments for location differentials pursuant to § 1096.75; and

(d) Add an amount equal to not less than one-half of the unobligated balance on hand in the producer-settlement fund.

§ 1096.72 Computation of uniform price.

For each of the months of August through January, the market administrator shall compute the uniform price per hundredweight for producer milk of 4.0 percent butterfat content, as follows:

(a) Divide the aggregate value computed pursuant to § 1096.71 by the total hundredweight of producer milk included in such computations; and

(b) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the uniform price for producer milk.

§ 1096.73 Computation of uniform prices for base milk and for excess milk.

For each of the months of February through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, as follows:

(a) *Excess milk price.* (1) Assign the total hundredweight of excess milk, received by all pool handlers whose receipts are included in the computation pursuant to § 1096.71 to producer milk in each class in series beginning with Class II;

(2) Multiply the pounds of excess milk assigned to each class pursuant to subparagraph (1) of this paragraph by the applicable class price and add the resulting totals;

(3) Add the amount of any adjustment applicable pursuant to the proviso of subparagraph (b)(2) of this section; and

(4) Divide the resulting total by the hundredweight of excess milk and round to the nearest cent. The result shall be the "uniform price for excess milk".

(b) *Base milk price.* (1) From the aggregate value determined pursuant to § 1096.71 subtract an amount determined by multiplying the hundredweight of excess milk determined pursuant to paragraph (a) of this section by the uniform price for excess milk;

(2) Divide the result by the total hundredweight of base milk received by all pool handlers whose receipts are included in the computation pursuant to § 1096.71: *Provided*, That if the resulting price should exceed the Class I price by more than the amount deducted pursuant to subparagraph (3) of this paragraph the aggregate amount in excess thereof shall be included in the computation of the excess price pursuant to paragraph (a) of this section, except that if by such addition the excess price should exceed the base price then the aggregate amount of the excess shall be prorated to the aggregate values of base milk and excess milk on the basis of the respective volumes of base and excess milk; and

(3) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the "uniform price for base milk".

§ 1096.74 Butterfat differential to producers.

The applicable uniform prices to be paid each producer pursuant to § 1096.80 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I and Class II milk pursuant to § 1096.46(b) for all pool handlers by the respective butterfat differential for such class computed pursuant to § 1096.52, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth of a cent.

§ 1096.75 Location differential to producers.

In making payment to producers and cooperative associations pursuant to § 1096.80 a handler may deduct, with respect to producer milk received at a pool plant located more than 50 miles by the shortest highway distance, as determined by the market administrator, from the nearer of the city halls in Minden or Monroe, Louisiana, the amount per hundredweight applicable to such plant pursuant to § 1096.53.

PAYMENTS

§ 1096.80 Time and method of payment for producer milk.

Except as provided in paragraph (d) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 28th day of each month, for milk received during the first 15 days of the month at not less than the Class II price for the preceding month;

(b) On or before the 15th day after the end of each month of August through January for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1096.72 subject to the butterfat and location differentials computed pursuant to §§ 1096.74 and 1096.75, respectively, and (1) less payment made pursuant to paragraph (a) of this section; (2) less marketing service deductions pursuant to § 1096.85; (3) plus or minus adjustments pursuant to § 1096.84 for errors in previous payments made to such producers; and (4) less proper deductions authorized by such producer;

(c) On or before the 15th day after the end of each of the months of February through July for milk received during such month, after allowance for payment made pursuant to paragraph (a) of this section, marketing service deductions pursuant to § 1096.85 and proper deductions authorized by such producer, an amount computed:

(1) At not less than the uniform price per hundredweight for base milk computed pursuant to § 1096.73(b) for the

quantity of base milk received from such producer during the month, subject to the butterfat and location differentials computed pursuant to §§ 1096.74 and 1096.75, respectively; and

(2) At not less than the uniform price per hundredweight for excess milk computed pursuant to § 1096.73(a) for the quantity of excess milk received from such producer during the month, subject to the butterfat and location differentials computed pursuant to §§ 1096.74 and 1096.75, respectively;

(d) On or before the 25th and 13th days of each month, in lieu of the payment pursuant to paragraphs (a), (b), and (c) of this section, respectively, each handler shall pay to a cooperative association which so requests, with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers;

(e) In making the payments to producers pursuant to paragraphs (b), (c), or (d) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer; and

(f) Each handler shall make payment to a cooperative association for each hundredweight of milk received from such association in its capacity as a handler as follows:

(1) On or before the 25th day of each month for milk received during the first 15 days of the month, at not less than the Class II price for the preceding month; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the applicable class prices, (i) less the amounts paid pursuant to subparagraph (1) of this paragraph, and (ii) plus or minus adjustments pursuant to § 1096.84 for errors in previous payments made to such cooperative association.

§ 1096.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payment made by handlers pursuant to §§ 1096.62, 1096.82, and 1096.84 and out of which he shall make payments to handlers pursuant to §§ 1096.83 and 1096.84: *Provided*, That payments due to any handler shall be offset by any payment due from such handler.

§ 1096.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of each month, each handler shall pay to the market administrator any amount by which his obligation computed pursuant to § 1096.70 for such month is greater than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials.

§ 1096.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler any amount by which his obligation computed pursuant to § 1096.70 for such month is less than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials. If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1096.84 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, discloses errors resulting in moneys due (a) the market administrator from such handler; (b) such handler from the market administrator; or (c) any producer or corporative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

§ 1096.85 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1096.80 shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to provide market information and to verify the weights, samples and tests of milk received from such producers during the month. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the service set forth in paragraph (a) of this section and for whom a cooperative association is authorized to receive payment for marketing services as set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payment to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and shall pay such deductions to the cooperative association entitled to receive it, on or before the 15th day after the end of the month during which such milk was received. Such deductions shall be accompanied by a statement showing the quantity of milk for which such deduction was computed for each producer. In lieu of such statement, the handler may request the market administrator to furnish such cooperative association the information reported for such producers pursuant to § 1096.31.

§ 1096.86 Expense of administration.

As his pro rata share of the expense of administration of this part each handler, except a producer-handler, shall pay to the market administrator on or before the 15th day after the end of the month, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe as follows:

(a) Each pool handler with respect to (1) all receipts of producer milk including such handler's own production, and (2) receipts of other source milk which are allocated to Class I milk pursuant to § 1096.46(a) (2) and (3), and the corresponding steps of § 1096.46(b);

(b) Each cooperative association in its capacity as a handler on producer milk diverted to a nonpool plant for the account of such association or received by such association pursuant to § 1096.8(d); and

(c) Each handler operating a nonpool distributing plant to the extent provided in § 1096.62.

§ 1096.87 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligations are made available to the market administrator or his representatives;

(c) Notwithstanding, the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1096.90 Effective time.

The provisions of this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1096.91.

§ 1096.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1096.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 1096.93 Liquidation.

(a) Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination.

(b) Any funds collected over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1096.94 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1096.95 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

[F.R. Doc. 62-5068; Filed, May 24, 1962; 8:49 a.m.]

[7 CFR Part 1133]

[Docket No. AO-275-A8]

MILK IN INLAND EMPIRE MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Spokane, Washington, on April 24, 1962, pursuant to notice thereof issued on April 16, 1962 (27 F.R. 3755).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Secretary, United States Department of Agriculture, on May 9, 1962 (27 F.R. 4557; F.R. Doc. 62-4655) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues on the record of the hearing relate to:

(1) The classification and pricing of nonfluid milk products used to produce ice cream, ice cream mix, frozen desserts, cocoa mixes, and cottage, pot and bakers' cheeses;

(2) The formula used to price milk used in Classes II and III; and

(3) Miscellaneous and conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence received at the hearing and the record thereof:

1. *Nonfluid products used in Class II.* Skim milk and butterfat in nonfluid milk products used to produce ice cream, ice cream mix, frozen desserts, cocoa mixes, and cottage, pot and bakers' cheeses should be classified and priced as Class III milk rather than as Class II milk. Skim milk and butterfat in fluid milk products used to produce these items should continue to be classified and priced as Class II milk.

Under the present provisions of the order, all skim milk and butterfat used to produce ice cream, ice cream mix, frozen desserts, cocoa mixes, and cottage, pot and bakers' cheeses (designated Class II products) are classified as Class II milk. Class II milk is priced at 25 cents per hundredweight more than Class III milk. Since Class II and Class III butterfat differentials are identical, the entire additional value is attributed to skim milk.

Any nonfluid products, including those processed at the plant, reprocessed or converted to another product in a handler's plant during the month are treated as a receipt of other source milk. The skim milk in such products is considered to be an amount equivalent to the nonfat milk solids content, plus all the water originally associated with such solids, and any products made therefrom are considered to contain an equal volume of skim milk. Under the allocation provisions of the order, current receipts of producer milk are assigned to the higher priced Class II uses in preference to other source milk.

Inland Empire handlers produce from pool milk substantial quantities of condensed skim milk used in the manufacture of ice cream and ice cream mix. There is no local source of uninspected milk that would provide a dependable alternative source of supply. There is, however, opportunity for regulated handlers to purchase condensed skim milk and nonfat dry milk solids produced in Washington and Oregon plants not subject to price regulation, or produced in plants subject to the order for the Puget Sound marketing area and priced at the level of the Inland Empire Class III price. Use of such sources of supply would result in diversion of substantial volumes of producer milk to nonpool plants for Class III uses. This would not be in the interest of orderly marketing.

The incentive for use of alternative supplies is not present with respect to the fluid milk products used to produce designated Class II products. To the extent that fluid skim milk may be used for such purposes, the milk solids it provides are competitive at the Class II price with those from alternative sources.

It is concluded that the skim milk and butterfat in Class II milk should be limited to that in fluid milk products used to produce designated Class II products and that the skim milk and butterfat in nonfluid products used to produce designated Class II products should be classified as Class III milk.

This method of classification will preserve the present method of accounting for nonfluid products as other source milk at the full skim milk equivalent of the solids content while relieving handlers of the possibility of being charged the higher Class II price with respect to use of nonfluid products in designated

Class II products. All testimony at the hearing agreed that a change to that end should be made in the order. The proposal contained in the hearing notice provided for use of only two classes of milk with an additional charge of 25 cents per hundredweight for fluid milk products used in what are now designated Class II products. The same result can be achieved most directly by the classification change provided herein.

2. *Class II and III pricing formula.* No change should be made at this time in the formula used to determine the price for Class II milk and Class III milk.

The price for Class III milk under the order is presently determined by a formula using Chicago butter prices and prices of nonfat dry milk (spray and roller process) at manufacturing plants in the Chicago area. The Class II price is the Class III price plus 25 cents. As an incident to the proposal for only two classes of utilization, it was proposed that a similar formula that is used as an alternative basic formula price be used to price the milk now in Classes II and III. No substantive testimony was offered in support of this proposed change in formula prices.

Testimony was offered in support of using only the price of spray process nonfat dry milk, rather than the average of that produced by the spray and roller processes. Roller process nonfat dry milk is no longer purchased for price support purposes due to its limited production volume. There is some possibility that the price of this limited volume may become erratic without the offer of support purchases.

Opposition to deletion of the roller process price was expressed by a cooperative association which moves milk for manufacturing use to a plant regulated under the Puget Sound order. The Puget Sound Class II price is the same as the present Inland Empire Class III price, and represents the amount that can be realized on milk moved to the Puget Sound plant.

There has so far been no experience upon which to estimate the probable effect of the change in the support price program on the price of roller process nonfat dry milk. Many orders use this price quotation in price formulas. In view of these circumstances and the relationship to the Puget Sound area, it is concluded that no change should be made in the Class III price formula at this time.

3. *Clarifying and conforming changes.* Two clarifying changes should be made in order language.

It should be made clear that handlers operating pool plants, as well as cooperative associations, may have shrinkage computed on milk diverted to nonpool plants. Practically all milk in this market is moved from farms in bulk tanks. Handlers' shrinkage allowances are reduced by 1.5 percent of all milk (including that diverted) disposed of in bulk tanks to other milk plants, therefore, an allowance should be computed on the volume to which such reduction will apply. Proprietary handlers should be treated on the same basis as cooperative associations with respect to computation of the shrinkage allowance on diverted milk.

In the decision of the Assistant Secretary issued February 2, 1962, it was concluded that proration of shrinkage should be between a designated volume of pool milk and other source fluid milk products. The order language should be more specific in limiting the volume of other source milk to be included in this proration to that received in the form of fluid milk products.

These changes represent merely clarification of language with no substantive effect in the way in which the order is now interpreted.

Rulings on proposed findings and conclusions. No briefs or proposed findings and conclusions were received.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Ruling on exception. In arriving at the findings and conclusions, and the regulatory provisions of this decision, the exception received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of this exception, such exception is hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Inland Empire Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Inland Empire Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of March 1962 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Inland Empire marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on May 23, 1962.

CHARLES S. MURPHY,
Under Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Inland Empire Marketing Area

§ 1133.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Inland Empire marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds,

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[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Inland Empire marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. In § 1133.41, paragraphs (b) and (c)(5)(i) are revised, and a new paragraph (c)(7) is added, as follows:

§ 1133.41 Classes of utilization.

* * * * *

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat contained in fluid milk products used to produce ice cream, ice cream mix, frozen desserts, cocoa mixes, and cottage, pot and bakers' cheeses; and

(c) *Class III milk.* * * *

(5) * * *

(i) Two percent of receipts at a pool plant of producer milk pursuant to § 1133.12(a) (1) and (2) and, with respect to a cooperative association, producer milk for which it is the handler pursuant to § 1133.15 (c) or (d); plus

* * * * *

(7) In nonfluid milk products used to produce ice cream, ice cream mix, frozen desserts, cocoa mixes, and cottage, pot and bakers' cheese.

2. Section 1133.42(b)(2) is revised to read as follows:

§ 1133.42 Shrinkage.

* * * * *

(b) * * *

(2) Skim milk and butterfat in other source milk received in the form of fluid milk products.

[F.R. Doc. 62-5125; Filed, May 24, 1962; 8:51 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTION FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 403(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition has been filed by California Chemical Company, Ortho Division, Lucas Street and Ortho Way, Richmond, California, proposing the establishment of a tolerance of 1 part per million for residues of phosphamidon (2-chloro-2-diethylcarbamoyl-1-methylvinyl dimethyl phosphate) in or on each of the raw agricultural commodities alfalfa, apples, beans, broccoli, cabbage, cantaloups (including muskmelons), casabas, collards, cranberries, cucumbers, eggplants, grapefruit, grapes, honeydew melons, lemons, oranges, pears, peas (and vines), peppers, potatoes, rice, spinach, strawberries, tomatoes, and wheat.

The analytical methods proposed in the petition for determining residues of phosphamidon are:

1. The cholinesterase-inhibition technique, which is a modification of that developed by Giang and Hall, Analytical Chemistry, Volume 23, page 1830 (1951).
2. A paper chromatographic technique described by I. E. Bush, Journal of Biological Chemistry, Volume 50, page 370 (1952).

In the latter technique, phosphamidon and its principal metabolites form blue spots when developed with an alkaline solution of blue tetrazolium chloride.

Dated: May 21, 1962.

ROBERT S. ROE,
Director, Bureau of
Biological and Physical Sciences.

[F.R. Doc. 62-5073; Filed, May 24, 1962; 8:49 a.m.]

[21 CFR Part 130]

NEW DRUGS

Dextromethorphan Hydrobromide Preparations; Proposed Change in Dosage Limitations

Notice is give that the Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)), and delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), proposes to amend the new-drug regulations to relax the dosage unit requirements of certain dextromethorphan hydrobromide preparations exempted from the prescription-dispensing requirements of section 503(b)(1)(C) of the act. The proposed amendment provides for an increase in the maximum content of dextromethorphan hydrobromide per dosage unit.

The maximum allowable recommended dose in the regulations is 30 milligrams, or two 15-milligram tablets (the preparation is limited to not more than 15 milligrams of dextromethorphan hydrobromide per dosage unit). The proposed amendment provides for 30 milligrams of dextromethorphan hydrobromide per dosage unit, or 6 milligrams per milliliter in liquid form. Since dextromethorphan hydrobromide is an antitussive established as safe for use in coughs due to colds or other minor conditions, it is not considered a new drug at this dosage.

It is proposed to amend § 130.102(a) (14)(iv) (21 CFR 130.102) to read as set forth below:

§ 130.102 Exemption for certain drugs limited by new-drug applications to prescription sale.

(a) * * *

(14) * * *

(iv) The preparation contains not more than 30 milligrams of dextromethorphan hydrobromide per dosage unit, or if it is in liquid form not more than 6 milligrams of dextromethorphan hydrobromide per milliliter.

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, submit written views and comments on the proposed amendment. Such comments should be submitted in triplicate and addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C.

Dated: May 21, 1962.

JOHN L. HARVEY,
Deputy Commissioner of
Food and Drugs.

[F.R. Doc. 62-5072; Filed, May 24, 1962; 8:49 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Parts 4b, 40, 41, 42]

[SR-422B]

[Reg. Docket No. 1220; Draft Release No. 62-24]

PERFORMANCE REQUIREMENTS FOR THREE-ENGINE TURBINE-POWERED TRANSPORT CATEGORY AIRPLANES

Notice of Proposed Rule Making

Pursuant to the authority delegated to me by the Administrator (14 CFR 405.27), notice is hereby given that there is under consideration amendments to Special Civil Air Regulation No. SR-422B establishing specific performance requirements for three-engine turbine-powered airplanes.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room C-226, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before July 23, 1962, will be considered by the Administrator before taking action upon the proposed rules. The proposals contained in this notice may be changed in the light of the comments received. All comments submitted will be available in the Docket Section for examination by interested persons at any time.

There has been considerable interest shown by airframe manufacturers in three-engine turbine-powered airplanes. As of this date, the Flight Standards Service has received two applications for type certification of such airplanes. Special Civil Air Regulation No. SR-422B, Turbine-Powered Transport

Category Airplanes of Current Design, is not specifically applicable to three-engine airplanes. Therefore, in order to insure an adequate level of safety for three-engine airplanes, it is necessary to establish complete performance requirements for such airplanes prior to their type certification. Accordingly, it is proposed to amend SR-422B to make it fully applicable to three-engine turbine-powered airplanes.

There are eight provisions in SR-422B which contain specific climb gradients for only two-engine and four-engine airplanes. These are contained in §§ 4T.116g, 4T.117a(b), 4T.120 (a) through (d), and 4T.121 (a) and (b). Amendments to these provisions are proposed herein to set forth appropriate climb gradient values for three-engine airplanes.

In § 4T.114(b) there is a differentiation in the specified minimum takeoff safety speeds applicable to two-engine and four-engine propeller-driven airplanes. The only question involved in this provision is whether the minimum takeoff safety speed for three-engine airplanes with propellers should be 1.2 V_s or 1.15 V_s. Considering the likely configurations of three-engine propeller-equipped airplanes and the effects of engine failure, it appears that these airplanes would fit into the category of the two-engine propeller-driven airplane. Therefore, it is proposed that the prescription of the takeoff safety speeds for three-engine propeller-driven airplanes, in terms of the stall speed, be the same as is currently prescribed for two-engine propeller-driven airplanes.

In § 4T.121(b), the margin of climb gradient for four-engine airplanes with two-engines inoperative is prescribed to be 0.5 percent. Pursuant to the en route limitations of § 40T.83 airplanes are precluded from flying along an intended route if any place along the route is more than 90 minutes from a suitable airport unless compliance is shown with the two-engine-inoperative en route limitations of § 40T.83(b). These requirements automatically prohibit two-engine airplanes from flying such routes. To formulate appropriate standards for three-engine airplanes, it is necessary to consider the applicable engine power condition and performance level. Some manufacturers have indicated that the power condition for three-engine airplanes should be based on loss of 50 percent of engine power rather than on complete loss of power of two engines. The Flight Standards Service believes that the failure of two engines is more probable than loss of 50 percent of power and is sufficiently probable to require consideration of two engines becoming inoperative along routes where the airplane would be more than 90 minutes from an airport. In view of this and the probable variation of other operational factors along the critical portion of such routes, it is proposed that the minimum margin of climb gradient for three-engine airplanes be equal to 0.3 percent with two engines inoperative.

These proposals were discussed at the conference held in September 1961, on proposed changes to Special Civil Air Regulation No. SR-422B. In general, there appeared to be no major issues involved in these proposals.

Systemworthiness of three-engine turbine-powered airplanes requires evaluation of other requirements of the Civil Air Regulations dealing with airman certification and with the operating rules not contained in SR-422B. The Agency intends to take the necessary regulatory action with respect to these matters prior to the introduction of three-engine turbine-powered airplanes into air carrier service.

In consideration of the foregoing, it is proposed to amend Special Civil Air Regulation No. SR-422B as follows:

1. By amending § 4T.114(b)(1) by inserting between the words "two-engine" and "propeller-driven" the words "and three-engine".
2. By amending § 4T.114(b)(2) by deleting the words "two engines" and inserting in lieu thereof the words "three engines".
3. By amending § 4T.116(g) by inserting after the words "two-engine airplanes" the following phrase "1.5 percent for three-engine airplanes".
4. By amending § 4T.117a(b) by inserting between the words "two-engine airplanes" and the word "and" the following phrase "equal to 0.9 percent for three-engine airplanes".
5. By amending § 4T.120(a) by inserting between the words "shall not be less than" and the numerals "0.5" the following phrase "0.3 percent for three-engine airplanes, and not less than".
6. By amending § 4T.120(b) by inserting between the words "two-engine airplanes" and the word "and" the following phrase "not less than 2.7 percent for three-engine airplanes".
7. By amending § 4T.120(c) by inserting between the words "two-engine airplanes" and the word "and" the following phrase "not less than 1.5 percent for three-engine airplanes".
8. By amending § 4T.120(d) by inserting between the words "two-engine airplanes" and the word "and" the following phrase "not less than 2.4 percent for three-engine airplanes".
9. By amending § 4T.121(a) by inserting between the words "two-engine airplanes" and the word "and" the following phrase "1.4 percent for three-engine airplanes".
10. By amending § 4T.121(b) by deleting the first sentence and by inserting in lieu thereof the following new sentence "For airplanes with three or four engines, the two-engine-inoperative net flight path data shall be determined in such a manner that they represent the airplane's actual climb performance diminished by a gradient of climb equal to 0.3 percent for three-engine airplanes and equal to 0.5 percent for four-engine airplanes."

These amendments are proposed under the authority of sections 313(a), 601, 603, of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

Issued in Washington, D.C., on May 18, 1962.

George C. Prill,
Director,
Flight Standards Service.

[F.R. Doc. 62-5046; Filed, May 24, 1962; 8:45 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 61-KC-49]

FEDERAL AIRWAYS AND CONTROLLED AIRSPACE

Withdrawal of Proposal for Designation of Transition Areas, Revocation of Control Area Extensions; Alteration of Control Zones, Federal Airways and Associated Control Areas

In a notice of proposed rule making published in the Federal Register as Airspace Docket No. 61-KC-49 on February 9, 1962 (27 F.R. 1221), it was stated that the Federal Aviation Agency (FAA), proposed the alteration of the controlled airspace in the St. Louis, Mo., terminal area attendant to the provisions of Amendment 60-21 to the Civil Air Regulations, Part 60, Air Traffic Rules.

Subsequent to publication of the notice, the FAA has adopted Amendment 60-29 to the Civil Air Regulations, Part 60, Air Traffic Rules (27 F.R. 4012) which redefines the term "transition area." Accordingly, a further review of this area is required and the notice is being withdrawn. Upon completion of this review, a new proposal will be issued.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the proposal contained in Airspace Docket No. 61-KC-49 is withdrawn.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348))

Issued in Washington, D.C., on May 21, 1962.

Clifford P. Burton,
Chief, Airspace Utilization Division.

[F.R. Doc. 62-5047; Filed, May 24, 1962; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

Proposed Idle Operating Funds

Notice is hereby given that pursuant to authority contained in section 308 of the Small Business Investment Act of 1958, Public Law 85-699, 72 Stat. 694, as amended, it is proposed to amend, as set forth below, § 107.710 of Part 107 of

Subchapter B, Chapter I, of Title 13 of the Code of Federal Regulations, as revised in 26 F.R. 8232–8242 and amended (27 F.R. 167, 851, 1720, and 3844). Prior to the final adoption of such amendment, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in triplicate, to the Small Business Investment Division, Small Business Administration, Washington 25, D.C., within a period of twenty-one days of the date of this notice in the FEDERAL REGISTER.

Information. The amendment under consideration changes the provisions of § 107.710(b) to provide that a Licensee may establish a petty cash fund and for the purpose of such fund may retain in cash a sum not to exceed $500 at any one time.

It is proposed to amend the Regulations Governing Small Business Investment Companies as follows:

1. By deleting paragraph (b) of § 107.710 and substituting in lieu thereof the following new paragraph (b):

§ 107.710 Idle operating funds.

* * * * *

(b) All funds of a Licensee not employed in accordance with the provisions of sections 304 and 305 of the Act and the regulations thereunder, and not invested in accordance with paragraph (a) of this section, as soon as practicable after receipt thereof, shall be placed and maintained on demand deposit with a commercial bank (or banks) which is a member of the Federal Deposit Insurance Corporation: *Provided, however,* That a Licensee may establish and maintain an imprest petty cash fund in an amount not to exceed $500.00 at any one time.

Dated: May 21, 1962.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 62-5062; Filed, May 24, 1962; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Coast Guard

[CGFR 62-16]

EQUIPMENT, INSTALLATIONS, OR MATERIALS

Approval and Termination of Approval Notice

1. Various items of lifesaving, firefighting, and miscellaneous equipment, installations, and materials used on merchant vessels subject to Coast Guard inspection or on certain motorboats and other pleasure craft are required by law and various regulations in 46 CFR Chapter I to be of types approved by the Commandant, United States Coast Guard. The procedures governing the granting of approvals, and the cancellation, termination or withdrawal of approvals are set forth in 46 CFR 2.75-1 to 2.75-50, inclusive. For certain types of equipment, installations, and materials, specific specifications have been prescribed by the Commandant and are published in 46 CFR Parts 160 to 164, inclusive (Subchapter Q—Specifications), and detailed procedures for obtaining approvals are also described therein.

2. The Commandant's approval of a specific item is intended to provide a control over its quality. Therefore, such approval applies only to the item constructed or installed in accordance with the applicable requirements and the details described in the specific approval. If a specific item when manufactured does not comply with the details in the approval, then such item is not considered to have the Commandant's approval, and the certificate of approval issued to the manufacturer does not apply to such modified item. For example, if an item is manufactured with changes in design or material not previously approved, the approval does not apply to such modified item.

3. After a manufacturer has submitted satisfactory evidence that a particular item complies with the applicable laws and regulations, a Certificate of Approval (CGHQ-10030) will be issued to the manufacturer certifying that the item specified complies with the applicable laws and regulations and approval is given, which will be in effect for a period of 5 years from the date given unless sooner canceled or suspended by proper authority.

4. The purpose of this document is to notify all concerned that certain approvals were granted and terminations of approvals were made, as described in this document on April 12, 1962. These actions were taken in accordance with procedures set forth in 46 CFR 2.75-1 to 2.75-50, inclusive.

5. The delegations of authority for the Coast Guard's actions with respect to approvals may be found in Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), 167-14, dated November 26, 1954 (19 F.R. 8026), 167-15, dated January 3, 1955 (20 F.R. 840), 167-20, dated June 18, 1956 (21 F.R. 4894), CGFR 56-28, dated July 24, 1956 (21 F.R. 5659), or 167-38, dated October 26, 1959 (24 F.R. 8857), and the statutory authority may be found in R.S. 4405, as amended, 4462, as amended, 4488, as amended, 4491, as amended, secs. 1, 2, 49 Stat. 1544, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 346, as amended, sec. 3, 70 Stat. 152 (46 U.S.C. 375, 416, 481, 489, 367, 526p, 1333, 390b), sec. 4(e), 67 Stat. 462 (43 U.S.C. 1333(e)), or sec. 3(c), 68 Stat. 675 (50 U.S.C. 198), and implementing regulations in 46 CFR Ch. I or 33 CFR Ch. I.

6. In Part I of this document are listed the approvals granted which shall be in effect for a period of 5 years from the dates granted, unless sooner canceled or suspended by proper authority.

7. In Part II of this document are listed the approvals which have been terminated. Notwithstanding this termination of approvals of the items of equipment as listed in Part II such equipment may be used so long as such equipment is in good and serviceable condition.

PART I—APPROVALS OF EQUIPMENT, INSTALLATIONS, OR MATERIALS

LIFEBOATS

Approval No. 160.035/343/1, 26.0′ x 7.88′ x 3.54′ aluminum, oar-propelled lifeboat, 42-person capacity, identified by construction and arrangement dwg. No. 26-11 dated September 26, 1955, and revised March 1, 1962, manufactured by Marine Safety Equipment Corp., Point Pleasant Beach, N.J., effective April 12, 1962. (It reinstates and supersedes Approval No. 160.035/343/0 terminated July 17, 1961.)

FIRE PROTECTIVE SYSTEMS

Approval No. 161.002/4/1, audible and visual, supervised smoke detecting system, Model ESDS-1 (General Schematic Wiring Diagram Dwg. No. 94386), up to forty-four (44) lines, consisting of five major components, viz:

1. Control Unit — Smoke Detector Cabinet, Dwg. No. 93325 and 94320,
2. Engineroom Alarm, Dwg. No. 93865,
3. Wheelhouse Annunciator Panel, Dwg. No. 94280,
4. Twin Suction Blower, Dwg. No. 94180,
5. 3″ Air Direction Valve, Dwg. No. 93825,

manufactured by Fyr-Fyter Company, Newark Branch Office, P.O. Box 750, Newark 1, N.J., effective April 12, 1962. (It supersedes Approval No. 161.002/4/0 dated December 5, 1961.)

PART II—TERMINATION OF APPROVALS OF EQUIPMENT, INSTALLATIONS, OR MATERIALS

LIFE PRESERVERS, CORK (JACKET TYPE) MODELS 32 AND 36

Termination of Approval No. 160.003/17/0, Model 32, adult cork life preserver, U.S.C.G. Specification Subpart 160.003, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn 1, N.Y., for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago 7, Ill., effective April 12, 1962. (Item no longer manufactured.)

Termination of Approval No. 160.003/18/0, Model 36, child cork life preserver, U.S.C.G. Specification Subpart 160.003, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn 1, N.Y., for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago 7, Ill., effective April 12, 1962. (Item no longer manufactured.)

Termination of Approval No. 160.003/21/0, Model 32, adult cork life preserver, U.S.C.G. Specification Subpart 160.003, manufactured by Style-Crafters, Inc., P.O. Box 3277, Station A, Greenville, S.C., for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago 7, Ill., effective April 12, 1962. (Item no longer manufactured.)

Termination of Approval No. 160.003/22/0, Model 36, child cork life preserver, U.S.C.G. Specification Subpart 160.003, manufactured by Style-Crafters, Inc., P.O. Box 3277, Station A, Greenville, S.C., for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago 7, Ill., effective April 12, 1962. (Item no longer manufactured.)

LIFE PRESERVERS, BALSA WOOD (JACKET TYPE) MODELS 42 AND 46

Termination of Approval No. 160.004/11/0, Model 42, adult balsa wood life preserver, U.S.C.G. Specification Subpart 160.004, manufactured by Style-Crafters, Inc., P.O. Box 3277, Station A, Greenville, S.C., for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago 7, Ill., effective April 12, 1962. (Item no longer manufactured.)

Termination of Approval No. 160.004/12/0, Model 46, child balsa wood life preserver, U.S.C.G. Specification Subpart 160.004, manufactured by Style-Crafters, Inc., P.O. Box 3277, Station A, Greenville, S.C., for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago 7, Ill., effective April 12, 1962. (Item no longer manufactured.)

BUOYANT VESTS, KAPOK OR FIBROUS GLASS, ADULT AND CHILD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Termination of Approval No. 160.047/438/0, Type I, Model AK-1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Siegmund Werner Co., 3951 South Canal Street, Chicago, Ill., effective April 12, 1962. (Item no longer manufactured.)

Termination of Approval No. 160.047/439/0, Type I, Model CKM-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Siegmund Werner Co., 3951 South Canal Street, Chicago, Ill., effective April 12, 1962. (Item no longer manufactured.)

Termination of Approval No. 160.047/440/0, Type I, Model CKS-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Siegmund Werner Co., 3951 South Canal Street, Chicago, Ill., effective April 12, 1962. (Item no longer manufactured.)

BUOYANT CUSHIONS, KAPOK OR FIBROUS GLASS

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Termination of Approval No. 160.048/80/0, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S. C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048-4(c)(1)(i), manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn 1, N.Y., for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago 7, Ill., effective April 12, 1962. (Item no longer manufactured.)

Termination of Approval No. 160.048/83/0, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048-4(c)(1)(i), manufactured by Style-Crafters, Inc., P.O. Box 3277, Station A, Greenville, S.C., for Sears, Roebuck and Co., 925 S. Homan Avenue, Chicago 7, Ill., effective April 12, 1962. (Item no longer manufactured.)

Termination of Approval No. 160.048/162/0, special approval for 15″ x 15″ x 2″ rectangular kapok buoyant cushion, 20-oz. kapok, U.S.C.G. Specification Subpart 160.048, manufactured by Siegmund Werner Co., 3951 South Canal Street, Chicago, Ill., effective April 12, 1962. (Item no longer manufactured.)

Dated: May 18, 1962.

[SEAL] A. C. RICHMOND,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 62-5082; Filed, May 24, 1962; 8:51 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

MAY 17, 1962.

The U.S. Department of Agriculture, Forest Service, has filed an application, Serial Number J. 012147 for the withdrawal of the lands described below, from all forms of appropriation under the general mining laws. The applicant desires the land for research studies on the effect of logging and sediment yield of two streams, its effect on salmon migration and reproduction, and upon stream regimen.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Cordova Building, Sixth and Cordova, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

Admiralty Island

Beginning at a point S. 86°30′ W., a distance of 1,294 feet from Young Bay East Base, a triangulation station, thence: S. 82°39′ W. 1,954 feet; S. 09°37′ E. 20,434 feet; N. 85°07′ E. 12,830 feet; N. 00°48′ W. 6,283 feet; N. 41°00′ W. 11,405 feet; S. 83°32′ W. 2,112 feet; N. 63°55′ W. 4,277 feet; N. 17°10′ W. 2,798 feet to the point of beginning.

The tract as described contains approximately 4,558 acres.

ROBERT J. COFFMAN,
Chief, Division of
Lands and Minerals Management.

[F.R. Doc. 62-5059; Filed, May 24, 1962; 8:47 a.m.]

Geological Survey

REGIONAL OIL AND GAS SUPERVISOR, SOUTHWESTERN REGION

Delegation of Authority With Respect to Drilling of Wells

Correction

In F.R. Doc. 62-4904, appearing at page 4814 of the issue for Tuesday, May 22, 1962, the following corrections are made:

1. The line reading "Approved: May 10, 1962." should be deleted.
2. The following words should appear after the signature and title of Arthur A. Baker:

Approved: May 10, 1962.

STEWART L. UDALL,
Secretary of the Interior.

DEPARTMENT OF COMMERCE

Maritime Administration

MOORE-McCORMACK LINES, INC.

Notice of Application for Approval of Changes in Itineraries of Certain Cruises

Notice is hereby given that Moore-McCormack Lines, Inc., has requested changes in the itineraries of certain cruises which were approved by the Maritime Subsidy Board on March 30, 1962, for the passenger ships SS Argentina and SS Brasil.

The proposed amended itineraries follow:

Sailing Date and Amended Itinerary

Brazil, September 17, 1962 (previously September 19, 1962)—New York, Norfolk, Nassau, Norfolk, New York.

Argentina, October 24, 1962—New York, Baltimore, San Juan, Trinidad, Barbados, Martinique, St. Thomas, Nassau, Baltimore.

Argentina, November 9, 1962—Baltimore, Port Everglades, San Juan, St. Thomas, Martinique, Barbados, Cartagena, Cristobal, Nassau, Port Everglades.

Any person, firm or corporation having any interest, within the meaning of Public Law 87-45, in the foregoing who desires to offer data, views or arguments should submit the same in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington 25, D.C., by close of business on June 8, 1962. In the event an opportunity to present oral argument is also desired, specific reason for such request should also be included. The Maritime Subsidy Board will consider these comments and views and take such action with respect thereto as in its discretion it deems warranted.

JAMES S. DAWSON, Jr.,
Secretary.

MAY 22, 1962.

[F.R. Doc. 62-5083; Filed, May 24, 1962; 8:51 a.m.]

National Bureau of Standards

WWVH, MAUI, HAWAII

Notice of Changes in Schedule for NBS Radio Station

The National Bureau of Standards proposes to make minor changes in the broadcast schedule for radio station WWHV in Maui, Hawaii. The changes are to become effective July 1, 1962. They were requested by the National Aeronautics and Space Administration and are not expected to interfere with other users of the transmissions from WWVH.

Present Schedule

Continuous except for four 3-minute silent periods each hour, the first commencing on the hour and the other 3 on each quarter hour thereafter, and a 34-minute silent period each day at 1900 UT.

Proposed Schedule

Continuous except for one silent period each hour from 15 minutes to 19 minutes past each hour and a 34-minute silent period from 1900 UT to 1934 UT.

The present transmission schedule of WWV, Beltsville, Maryland, will be retained, including a silent period each hour from 45 minutes to 49 minutes past each hour. Thus the time signals of either station may be received four minutes out of each hour without interference from the other. A change in the transmission of the binary time code from station WWV will be made so that the amplitude between pulses on the 1 kc subcarrier will be about one-third of full amplitude instead of going to zero.

Communications regarding these changes should be addressed to the Director, National Bureau of Standards, Washington 25, D.C., to be received before June 15.

R. D. HUNTOON,
Deputy Director.

[F.R. Doc. 62-5070; Filed, May 24, 1962; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 13415]

WEST COAST AIRLINES, INC., "USE IT OR LOSE IT" INVESTIGATION AND ROUTE REALIGNMENT

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 11, 1962, at 10 a.m., e.d.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Walter W. Bryan.

Dated at Washington, D.C., May 22, 1962.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 62-5087; Filed, May 24, 1962; 8:51 a.m.]

FEDERAL AVIATION AGENCY

[OE Docket No. 62-CE-3]

PROPOSED ANTENNA STRUCTURE

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal to interested persons for aeronautical comment and has conducted a study to determine its effect upon the safe and efficient utilization of airspace: MIA Enterprises, Inc., Radio Station KWBE, Beatrice, Nebr., proposes to construct a guyed radio tower at Sherman and Mary Streets in Beatrice, Nebraska, at latitude 40°15′48″ north, longitude 96°46′27″ west. The overall height of the structure would be 1,709 feet above mean sea level (396 feet above ground).

The original circularization of this proposal specified a five tower array consisting of the proposed tower and four additional towers with an overall height of 1,508 feet mean sea level (196 feet above ground). A revised proposal dated January 20, 1962, specifies a single antenna structure as described above.

The proposed structure would be located 2.93 miles south of the Beatrice Municipal Airport and within the final approach area of Runway 35. However, it would not penetrate any airport imaginary surface as defined in § 626.13 of the regulations of the Administrator.

Objections were made in response to the circularization by the Air Transport Association of America on the basis that the proposed structure would raise the instrument approach landing minimums for Runways 31 and 35 at the Beatrice Municipal Airport. The Department of Aeronautics, State of Nebraska, and the Airport Manager of the Beatrice Municipal Airport objected to the proposal on the basis that it would violate airport zoning and would raise the landing minimums for the Beatrice Municipal Airport. The Air Line Pilots Association objected to the proposal because the structure would exceed hazards to air navigation criteria as defined in § 626.12.

No other objections were presented at the Regional Informal Airspace Meeting. Following the meeting, however, ATA withdrew its objection subject to a provision that the proposed structure would have no adverse effect upon the landing minimums for Runway 31 at the Beatrice Municipal Airport.

The proposed structure would have the following effects upon aeronautical operations at the Beatrice Municipal Airport and in the Beatrice Terminal area:

1. Instrument approach procedure missed approach altitudes and holding altitudes: An increase from 2,600 feet to 2,700 feet for all prescribed approaches. This would have no substantial adverse effect as the resulting climb and descent rates which would be required are well within prescribed standards.
2. Instrument approach procedure landing minimums: An increase in ceiling minimum for Special Procedure Ter VOR-35 from 700 feet to 800 feet. This would have no substantial adverse effect because Standard Instrument Approach Procedure AL-936-VOR-RWY 13 provides a ceiling minimum of 500 feet to all runways at the Beatrice Municipal Airport, including a circling approach to Runway 35.

No other aeronautical operations, procedures or minimum flight altitudes would be affected.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 626.33), it is concluded that the proposed structure, at the location and mean sea level elevation specified herein, would have no substantial adverse effect upon aeronautical operations, procedures or minimum flight altitudes; and it is hereby determined that this structure would not be a hazard to air navigation, provided that the structure be obstruction marked and lighted in accordance with applicable Federal Communications Commission rules.

This determination is effective as of the date of issuance and will become final 30 days thereafter unless an appeal is filed under § 626.34 (14 CFR 626.34). If the appeal is denied, the determination will then become final as of the date of the denial or 30 days after the issuance of the determination whichever is later. Unless otherwise revised or terminated a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (14 CFR 626.35).

Issued in Washington, D.C., on May 11, 1962.

OSCAR W. HOLMES,
Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 62-5048; Filed, May 24, 1962; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-18338 etc.]

COASTAL TRANSMISSION CORP. ET AL.

Notice of Application and Date of Hearing

MAY 18, 1962.

Take notice that on February 19, 1962, as supplemented on March 30, 1962, Coastal Transmission Corporation (Coastal) and Florida Gas Transmission Company (Florida Gas) (formerly Houston Texas Gas and Oil Corporation) filed a joint motion to amend certain certificate authorizations heretofore granted in Docket Nos. G-18338, et al. Notice of the content of said motion to amend is being issued concurrently herewith.

The aforesaid motion to amend also included a request pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon and remove from service certain natural gas facilities heretofore authorized to Coastal in Docket No. G-9960 (Docket Nos. G-9262, et al.) as follows: A portion of the existing Palacios Lateral in Matagorda County, Texas, consisting of 1.1 miles of 6-inch pipeline extending from the Christie, Mitchell and Mitchell property to the proposed point of connection of the lateral to the Tenneco processing plant (this lateral is requested, in the pending amendment in Docket No. G-18338) with the Palacios Lateral.

Also, Coastal seeks permission and approval to abandon and remove from service certain natural gas facilities which were constructed and operated pursuant to temporary authorization granted in Docket No. G-18338, namely, that section of the Palacios Lateral system consisting of 1.3 miles of 4½-inch pipeline extending from the Tidewater Oil Company property to the property of Kilroy Structural Steel, et al., and 2.7 miles of 6-inch pipeline extending from the latter point to the property of Christie, Mitchell and Mitchell referred to in the preceding paragraph.

The foregoing abandonments are stated to be necessary because of the cancellation of certain gas purchase contracts and the changes in delivery points of others.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on June 26, 1962 at 9:30 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before June 15, 1962. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-5049; Filed, May 24, 1962; 8:46 a.m.]

[Docket No. G-18338 etc.]

COASTAL TRANSMISSION CORP. ET AL.

Notice of Motion for Amendment of Certificate Authorizations

MAY 18, 1962.

Take notice that on February 19, 1962, as supplemented on March 30, 1962, Coastal Transmission Corporation (Coastal) and Florida Gas Transmission Company (Florida Gas) (formerly Houston Texas Gas and Oil Corporation) filed a joint motion to amend the Commission's order issued August 9, 1961, in Docket Nos. G-18338, et al., as further modified by order issued November 2, 1961, in respect to the certificates of public convenience and necessity granted to Coastal and Florida Gas in Docket Nos. G-18338 and G-18615, respectively, all as more fully set forth in the aforesaid motion and supplement which are on file with the Commission and open to public inspection.

The requested amendments to the subject certificate authorizations are as follows:

(1) Florida Gas, in Docket No. G-18615, to construct and operate approximately 9.3 miles of 4½-inch lateral pipeline from a point on its 20-inch main transmission line in Indian River County, Florida, to the site of a new electric generating plant in the City of Vero Beach, Florida, in lieu of the presently authorized approximately 6 miles of 2⅞-inch lateral pipeline to the site of the old City of Vero Beach electric generating plant. This proposed change is estimated to increase the cost of the Vero Beach lateral from $115,700 to $196,300, or an additional $80,600.

(2) To delete from authorization in Docket No. G-18338 the following facilities which Coastal does not propose to construct and operate: (a) Fulton Beach Tap, (b) Potrero Lopena 14.2-mile lateral pipeline, and (c) Palacios Lateral 1.2-mile extension lateral to facilities of Socony, Mobil Oil Company. The estimated total cost of these facilities was $458,695.

(3) Coastal, in Docket No. G-18338, to construct and operate a 1.3-mile addition to the Palacios Lateral system extending from the new terminus of the Palacios Lateral to the Tenneco (Tennessee Gas Transmission Company) processing plant in Matagorda County, Texas, at an estimated cost of $39,000.

(4) Coastal, in Docket No. G-18338, to construct and operate approximately 6.1 miles of 8-inch loop pipeline from the end of the presently authorized 6.0 miles of 8-inch loop on the Palacios Lateral to the aforesaid new terminus thereof, at an estimated total cost of $171,845.

(5) Coastal, in Docket No. G-18338, to increase the size of the presently authorized approximately 16 miles of 8-inch pipeline comprising the so-called Lake Chicot Lateral to approximately 11.1 miles of 10-inch pipeline and 4.9 miles of 12-inch pipeline. This proposed change is requested to provide sufficient capacity in the subject lateral to permit further development of the field which it serves. Said change is estimated to increase the cost of the Lake Chicot Lateral from $836,489 to $960,000, or an additional $123,511.

(6) (By the Supplement filed on March 30, 1962, to the February 19, 1962, motion to amend) Florida Gas, in Docket No. G-18615, in increase the size of the presently authorized approximately 32 miles of 6⅝-inch pipeline comprising the so-called Indian River Lateral extending from Florida Gas' 20-inch main transmission line to the Indian River electric generating plant of the Orlando Utilities Commission near Delespine, Brevard County, Florida, to a diameter of 8⅝ inches. This proposed change is requested to provide sufficient capacity in the subject lateral to take care of indicated future requirements which exceed those expected at the time of the original application. Said change is estimated to increase the cost of the Indian River Lateral from the original figure of $744,016 to $856,000, or an additional $111,984.

Protests, petitions to intervene or requests for hearing in this matter may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before June 8, 1962.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-5050; Filed, May 24, 1962; 8:46 a.m.]

[Docket No. CP62-194]

MEDINA GATHERING CORP.

Notice of Application and Date of Hearing

MAY 18, 1962.

Take notice that on February 15, 1962, as supplemented on March 28, 1962, April 27, 1962, and May 10, 1962, Medina Gathering Corporation[1] (Applicant), D205 Petroleum Center, San Antonio 9, Texas, filed in Docket No. CP62-194 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the gathering, sale, and delivery of natural gas to Tennessee Gas Transmission Company (Tennessee) and the construction and operation of the facilities necessary therefor, all as more fully set forth in the application, as supplemented, which is on file with the Commission and open to public inspection.

Applicant seeks authorization to construct and operate a gathering system which will be used in the gathering, sale and delivery to Tennessee of natural gas which will be purchased by Applicant from producers in northeastern Ohio and northwestern Pennsylvania. Applicant and Tennessee have entered into an agreement dated February 1, 1962, which provides that Applicant will supply Tennessee with peaking service between November 1 and April 30 for a 20-year term. Tennessee will use Applicant's reserves as storage during the summer months and to meet the heavier requirements of its customers during the winter months. Under its contracts with the producers and with Tennessee, Applicant will acquire storage rights beneath a substantial portion of the dedicated acreage and has agreed eventually to assign such storage rights to Tennessee so that Tennessee may ultimately utilize the reservoirs for the injection of gas for storage.

Applicant proposes to sell to Tennessee up to 60,000 Mcf of gas per day. The proposed main gathering lines will consist of approximately 28 miles of 10-inch and 12-inch lines with well gathering facilities from 2 to 8 inches in diameter. The points of delivery to Tennessee will be in Crawford County, Pennsylvania. Applicant states that field compression will be necessary to meet the contract obligation to deliver the gas to Tennessee. Applicant proposes only to sell gas to Tennessee and states that the volumes to be made available to Tennessee are intended to augment Tennessee's supply for its present customers and that Tennessee does not propose to supply new markets in connection with this application. The initial price to be paid to Applicant by Tennessee is 37 cents per Mcf, for which Applicant will file a tariff not less than 30 days prior to the commencement of deliveries.

The cost of the proposed facilities is estimated to be approximately $3,469,300. Applicant has agreed to file a plan of financing as a condition to the certificate which would provide that its long-term debt ratio will not exceed 75 percent of the total capitalization at the end of the second year of operation. Applicant has also agreed to file within 90 days after the first two years of operation cost-supporting data on the basis of actual experience, and lower rates, if necessary, reflecting the cost of service data.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on June 26, 1962, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

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[1] The February 15, 1962, filing was made under the name of Consolidated Gas Gathering Corporation.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before June 15, 1962. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-5051; Filed, May 24, 1962; 8:46 a.m.]

[Docket No. G-17336]

TEXAS GAS EXPLORATION CORP.

Notice of Severance, Extension of Time and Postponement of Hearing

MAY 18, 1962.

Upon consideration of the request filed by Applicant in the above-designated matter, notice is hereby given that the proceeding listed above is hereby severed from the proceedings consolidated by order issued March 7, 1962, under the lead docket, Texaco-Seaboard, Inc., et al., Docket Nos. G-13169 et al., heretofore scheduled for hearing on May 29, 1962, by order issued March 7, 1962, as modified by notice issued March 27, 1962.

An extension is hereby granted to the participants in the proceeding severed hereby to and including June 18, 1962 within which to serve and file the data specified by paragraph (C) of the Commission's order issued March 7, 1962; and that a hearing in the severed proceeding is scheduled to commence at 10 a.m., June 29, 1962, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-5052; Filed, May 24, 1962; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 22, 1962.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 37743: *Asphalt from Billings, East Billings, and Laurel, Mont.* Filed by Great Northern Railway Company (No. 1079), jointly with the Northern Pacific Railway Company (No. 123), for themselves and interested rail carriers. Rates on asphalt (asphaltum), natural, byproduct, or petroleum (other than paint, stain, or varnish), petroleum road oil and petroleum wax tailings, in tankcar loads, from Billings, East Billings and Laurel, Mont., to points in Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin.

Grounds for relief: Market competition.

Tariffs: Supplement 40 to Great Northern Railway Company tariff I.C.C. A-8854 and Supplement 14 to Northern Pacific Railway Company tariff I.C.C. 9977.

FSA No. 37744: *Screened gravel from Riverton, Ind., to Centralia, Ill.* Filed by Illinois Freight Association, Agent (No. 174), for interested rail carriers. Rates on screened gravel, in carloads, from Riverton, Ind., to Centralia, Ill.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 95 to Illinois Central Railroad Company tariff I.C.C. A-11687.

FSA No. 37745: *Sugar cane bagasse boards or sheets from Armant, La.* Filed by Southwestern Freight Bureau, Agent (No. B-8211), for interested rail carriers. Rates on boards or sheets made from sugar cane bagasse, in carloads, as described in the application, from Armant, La., to points in southwestern territory, also Kansas and Illinois and Mississippi River crossings.

Grounds for relief: Carrier competition.

Tariffs: Supplement 138 to Southwestern Freight Bureau tariff I.C.C. 3850, and other schedules named in the application.

FSA No. 37746: *Barytes from Caddo Gap, Ark., to points in Texas.* Filed by Southwestern Freight Bureau, Agent (No. B-8216), for interested rail carriers. Rates on barite (barytes), ground, not precipitated or refined by chemical process, in carloads, from Caddo Gap, Ark., to specified points in Texas.

Grounds for relief: Market competition.

Tariff: Supplement 16 to Southwestern Freight Bureau tariff I.C.C. 4429.

FSA No. 37747: *Calcined plaster and plasterboard joint system from Dallas, Tex.* Filed by Southwestern Freight Bureau, Agent (No. B-8217), for interested rail carriers. Rates on calcined plaster and/or plasterboard joint system, in carloads, from Dallas, Tex., to points in southern territory, also Virginia Cities gateway points.

Grounds for relief: Market competition.

Tariff: Supplement 6 to Southwestern Freight Bureau tariff I.C.C. 4426.

FSA No. 37748: *Iron and steel articles to points in Louisiana.* Filed by Western Trunk Line Committee, Agent, (No. A-2247), for interested rail carriers. Rates on iron or steel articles, as described in the application, in carloads, from Kansas City, Mo., and Minnequa, Colo., to specified points in Louisiana.

Grounds for relief: Market competition.

Tariffs: Supplements 33 and 11 to Western Trunk Line Committee tariffs I.C.C. A-4396 and A-4393, respectively.

FSA No. 37749: *Joint motor-rail rates from and to points in Southwest.* Filed by Middlewest Motor Freight Bureau, Agent (No. 326), for interested carriers. Rates on various commodities moving on class and commodity rates, loaded in highway trailers of the motor carriers over the highways, thence transported on railroad flat cars of the railroads, between points in southwestern territory, on the one hand, and points in Illinois, Indiana, Wisconsin, and Minnesota, on the other.

Grounds for relief: Motor-truck competition.

FSA No. 37750: *Joint motor-rail rates from and to points in Texas.* Filed by Middlewest Motor Freight Bureau, Agent (No. 328), for interested carriers. Rates on various commodities moving on class and commodity rates, loaded in highway trailers of the motor carriers over the highways, thence transported on railroad flat cars of the railroads, between points in Texas, on the one hand, and points in Illinois, Iowa, Kansas, Minnesota, Missouri, and South Dakota, on the other.

Grounds for relief: Motor-truck competition.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 62-5064; Filed, May 24, 1962; 8:48 a.m.]

[Notice 643]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 22, 1962.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 64869. By order of May 18, 1962, the Transfer Board approved the transfer to William Fowlston, doing business as Fowlston Trucking, Oxford, N.Y., of Permit No. MC 116148, issued July 29, 1957, to Harry D. Wolf, New Bloomfield, Pa., authorizing the transportation, over irregular routes, of prefabricated houses, complete, knocked down, or in sections, including component parts and equipment and materials incidental to the erection and completion of such houses, when shipped therewith, except commodities the transportation of which because of size or weight require the use of special equipment, from McDonough, N.Y., to points in Florida, Georgia, North Carolina and South Carolina. Charles Trayford, 220 East 42d Street, New York 17, N.Y., applicant's representative.

No. MC-FC 64921. By order of May 18, 1962, the Transfer Board approved the transfer to Display Movers & Storage, Inc., North Brunswick, N.J., of Certificate No. MC 48809, issued October 13, 1958, to Suburban Storage Co., Inc., New Rochelle, N.Y., authorizing the transportation of household goods over irregular routes, from New York, N.Y., and points in Connecticut, New Jersey, New York, and Pennsylvania within 50 miles of New York, N.Y., to points in Connecticut, Delaware, Florida, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and District of Columbia; and from points in the above-specified destination territory to Philadelphia, Pa., points in Connecticut, New Jersey, and New York and those in that part of Delaware on and north of a line beginning at the Maryland-Delaware State line and extending eastward along U.S. Highway 40 to junction Delaware Highway 273 (formerly U.S. Highway 40) and thence along Delaware Highway 273 to New Castle, Del. LeRoy Danziger, 334 King Road, North Brunswick, N.J., attorney for applicants.

No. MC-FC 64933. By order of May 18, 1962, the Transfer Board approved the transfer to Arrow Transfer, Inc., Cincinnati, Ohio, of Permit in No. MC 11620 issued December 27, 1961, to Arrow Transfer Company, a corporation, Danville, Ky., authorizing the transportation of: Cheese and condensed whey, from Stanford, Ky., to Cincinnati, Ohio, empty containers for the above specified commodities, from Cincinnati, Ohio, to Stanford, Ky., cheese, oleomargarine, butter, and powdered milk, from Cincinnati, Ohio, and Stanford, Ky., to points in Alabama and Virginia; oleomargarine, from Stanford, Ky., to points in Florida, Georgia, North Carolina, South Carolina, and Tennessee, damaged, defective, and returned shipments of all the above-specified commodities from destination points to origin points; oleomargarine, in vehicles equipped with mechanical refrigeration, from Cincinnati, Ohio, to points in Kentucky, with restriction; oleomargarine, from Cincinnati, Ohio, to points in Alabama and Virginia, with restriction; powdered milk, from Stanford, Ky., to Cincinnati, Ohio, and points in Tennessee, North Carolina, South Carolina, Georgia, and Florida; damaged or defective shipments of powdered milk from destination points to Stanford, Ky., with restriction; acid, cleansing compounds or solutions, cleansing apparatus, cream or milk testing and weighing apparatus, and stationery supplies, between Cincinnati, Ohio, on the one hand, and, on the other, points in various counties in Kentucky; cheese and butter, from Cincinnati, Ohio, and Covington and Stanford, Ky., to Middlesboro, Ky., points in North Carolina, except Asheville, N.C., South Carolina, except Spartanburg, Greenville, Columbia, Charleston, and Orangeburg, S.C., and points in Georgia and Tennessee; empty containers for cheese and butter, from above destination points to origin points, with restriction, cream, butter, and empty milk cans between Cincinnati, Ohio, on the one hand, and, on the other, points in Fayette, Madison, Marion, Washington, Mercer, Jessamine, Garrard, Lincoln, Boyle, Taylor, and Pulaski Counties, Ky., cream and butter, from points in Kentucky to Cincinnati, Ohio, empty cream containers from Cincinnati, Ohio, to origin points next above; cheese and butter, from Cincinnati, Ohio, and Covington and Stanford, Ky., to Asheville, N.C., and Spartanburg, Greenville, Columbia, Charleston, and Orangeburg, S.C., and points in Florida; buttermilk in bulk, from Harrodsburg and Lexington, Ky., to Cincinnati, Ohio, butter, from Cincinnati, Ohio to points in Laurel, Whitley, Harlan, and Bell Counties, Ky. (except Middlesboro, Ky.) cheese, from Cincinnati, Ohio, to points in Kentucky (except Middlesboro, Ky.), from Stanford, Ky., to New York, N.Y., Newark, N.J., and Philadelphia and Manatawny, Pa. condensed whey, in containers, from Stanford, Ky., to points in Tennessee, Georgia, North Carolina, South Carolina, and Florida; oleomargarine, from Cincinnati, Ohio, to points in Tennessee, North Carolina, South Carolina, Georgia, and Florida and whey in bulk, in tank vehicles, from Stanford, Ky., to points in Alabama, Delaware, Florida, Georgia, Indiana, Maryland, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia. Jack B. Josselson, 700 Atlas Bank Building, Cincinnati 2, Ohio, attorney for applicants.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 62-5065; Filed, May 24, 1962; 8:48 a.m.]

GENERAL SERVICES ADMINISTRATION

[Delegation of Authority 413]

SECRETARY OF COMMERCE

Authority To Appoint Special Policemen

1. Pursuant to the authority vested in me by the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, authority is hereby delegated to the Secretary of Commerce to appoint uniformed guards as special policemen with such powers as are conferred in the Act of June 1, 1948 (62 Stat. 281), for protection duties on those parcels of property at the United States Merchant Marine Academy, Kings Point, New York over which the United States Government has acquired exclusive criminal jurisdiction.

2. This authority shall be exercised strictly in accordance with the attachment entitled "Authority of Special Police" and any other standards, procedures or regulations hereafter prescribed by the General Services Administration.

3. There shall be submitted to the General Services Administration an annual report at the close of each fiscal year summarizing operations under this delegation of authority. The report shall be in the form prescribed by the General Services Administration for the purpose.

4. This authority may be redelegated to such officials of the Maritime Administration as the Secretary of Commerce may deem necessary.

5. This delegation shall be effective as of the date hereof.

BERNARD L. BOUTIN,
Administrator.

MAY 18, 1962.

[F.R. Doc. 62-5066; Filed, May 24, 1962; 8:48 a.m.]

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